

THE HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No. 2579 of 2017

ORDER:

1) The present Civil Revision Petition is filed under Section 115 of C.P.C. questioning the order dated 02.03.2017, passed in I.A.No.240 of 2015 in O.S.No.61 of 2008 on the file of the Senior Civil Judge, Puttur, wherein an application filed by the petitioner to condone the delay of 330 days in filing a petition to set aside the exparte decree dated 17.02.2014, is rejected.

2) Learned counsel for the petitioner would submit that the petitioner came to know about the passing of the decree only in the year 2013, when a notice was given by the Tahsildar vide his proceedings No.TRH.75/2013 dated 30.03.2013, stating that the plaintiff claimed pattadar pass book and title deeds for the petition schedule property. It is further stated that thereafter the husband of the petitioner died as such she could not take steps immediately. By referring to various paragraphs of the judgment, it was contended by the learned counsel for the petitioner that a fraud is alleged to have been committed by the plaintiff in the suit. According to him, the Court could not have entertained the suit basing on the Xerox copy of the agreement of sale.

3) On the other hand learned counsel for the respondents would submit that the findings of the Court below clearly indicate that the petitioner is aware about the suit proceedings since 2008 itself. He further submits that if the plea of the petitioner is fraud, she

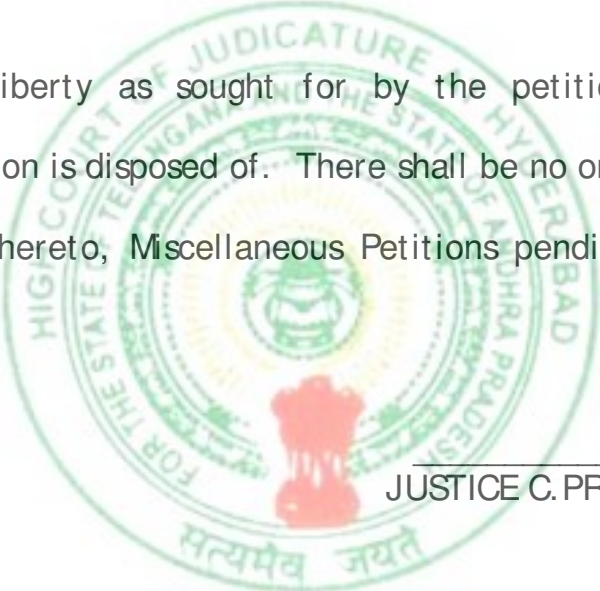
should take appropriate steps in accordance with law and cannot take such a plea in this suit. However, he contends that even before the petitioner purchased the property, the suit was filed. Initially Xerox copy of the agreement of sale was filed and later on the original agreement was filed.

4) The issue as to whether there was a fraud or collusion cannot be adjudicated in these proceedings. At this stage, learned counsel for the petitioner pleads that an opportunity may be given to the petitioner to avail the remedies available under law.

5) Giving liberty as sought for by the petitioner, the Civil Revision Petition is disposed of. There shall be no order as to costs. As a sequel thereto, Miscellaneous Petitions pending if any, shall stand closed.

04.08.2017

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JUSTICE C. PRAVEEN KUMAR