

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.R.P.No.3407 and 3408 of 2012

COMMON ORDER:

Heard the learned counsel for the petitioners Sri T.Sreedhar and Sri Chavali Ramanand, learned counsel for the respondents.

2. Since these two revisions are interconnected, this Court deems it appropriate to dispose of these two revisions by way of this common order.

3. The respondents in O.P.550 of 2000, on the file of the Court of the learned District Judge, Ongole are the petitioners in these revisions. The respondent herein instituted pauper OP.550 of 2000 on the file of the District Court, Ongole and prayed to permit him to sue the suit as in forma pauperis and for a recovery of a sum of Rs.25,60,000/- with interest. The learned District Judge by way of an order dated 20.04.2004 dismissed the said Pauper OP.550 of 2000 while directing the respondent herein to pay the Court fee on or before 29.04.2004. Challenging the validity of the said order passed by the learned District Judge, the respondent herein preferred CMA.1484 of 2004 before this Court. This Court, on 28.08.2007, dismissed the said CMA.1484, confirming the order passed by the Court below, but however, granted three months time for payment of court fee from the said date. The said three months obviously came to an end on 27.11.2007.

4. After 4 ½ years, the respondent herein filed I.A.Nos.33 and 34 of 2012 before the Court below seeking condonation of delay of 1619 days in paying the Court fee and to permit him to pay the Court fee and to number the plaint. The learned District Judge, Ongole by way of the orders under

challenge, allowed the said applications condoning the delay and consequently permitted the respondent herein to pay Court fee.

5. These revisions challenge the validity and the legal sustainability of the said orders passed by the learned District Judge. According to the learned counsel for the petitioners, the orders impugned are vitiated by jurisdictional error and the learned District Judge grossly erred in allowing the applications without even issuing notices to the petitioners herein and without recording any reasons for allowing the said applications.

6. On the contrary, it is vehemently contended by the learned counsel for the respondent that there is no infirmity in the impugned orders and the learned District Judge is perfectly justified in allowing the applications in the interest of justice and since the learned Judge condoned the delay by exercising the powers conferred under Section 148 of the Code of Civil Procedure, such discretionary order cannot be interfered with under Article 227 of the Constitution of India. It is further submitted by the learned counsel that the contention of the counsel for the petitioners that the learned Judge has no power cannot be sustained.

7. In the above background, now the issue that emerges for consideration of this Court is_ “Whether the orders passed by the learned District Judge are sustainable and tenable?”

8. There is no dispute with regard to the factum of disposal of Pauper OP.550 of 2000 by the District Court and granting of three months time for payment of Court fee. It is also an undisputed reality that the said order passed by the District Court was assailed before this Court by way of CMA.No.1484 of 2004 and this Court by way of an order dated 27.11.2007 dismissed the said appeal, confirming the order passed by the learned

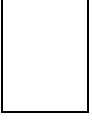
District Judge and while dismissing the same, this Court granted three months time for payment of Court fee. Admittedly, the respondent herein filed the present applications in the month of January, 2012 and no reasons are forthcoming as to why the applications were filed with such a delay. It is also significant to note that while dismissing the CMA this Court granted only three months time to the respondent herein to pay the Court fee. This Court finds sufficient force in the submission of the learned counsel for the petitioners that Court below suffers from inherent lack of jurisdiction to order the applications when this Court granted only three months time which expired admittedly on 27.11.2007. In the considered opinion of this Court, the respondent herein ought to have filed the applications before this Court but not before the Court below for extension. Therefore, this Court has absolutely no scintilla of hesitation nor any shadow of doubt to hold that the orders passed by the Court below suffer from inherent lack of jurisdiction.

9. Accordingly, the Civil Revision Petitions are allowed, setting aside the orders dated 05.01.2013 passed in I.A.No.34 and 33 of 2012, on the file of the Court of the Additional District Judge, Markapuram. Miscellaneous petitions, if any pending, in these revisions shall stand closed. No order as to costs.

A.V.SESHA SAI, J

Date: 31.08.2017

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Dated 31.08.2017

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