

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.5355 of 2017

ORDER:

Heard the learned counsel for the petitioner.

2. This Civil Revision Petition is filed challenging the order dt.01-07-2017 in I.A.No.1760 of 2016 in A.S.S.R.No.4823 of 2015 of the Principal District Judge, West Godavari, Eluru.

3. The said appeal was preferred by respondent Nos.1 and 2 challenging the judgment and decree dt.24-11-2014 in O.S.No.187 of 2007 on the file of the Senior Civil Judge, Tadepalligudem (previously O.S.No.620 of 2000 on the file of the Principal Junior Civil Judge, Tadepalligudem). Since there was delay of 116 days in filing the said appeal before the Principal District Judge, West Godavari, Eluru, I.A.No.1760 of 2016 was filed by respondent Nos.1 and 2 to condone the delay of 116 days in filing the said appeal.

4. In the affidavit filed in support of the said application, it was stated that there was a delay of 6 days in filing copy application to obtain certified copy; that certified copy was made available on 30-12-2014; that appeal was to be filed within 30 days; and thereafter, there was a marriage of the maternal uncle of respondent Nos.1 and 2 on 25-01-2015 and subsequently the 1st respondent fell sick and this caused delay in filing the appeal.

5. Counter affidavit was filed opposing the said application by the petitioner who was 3rd respondent in the said appeal. He contended that no sufficient cause has been pointed out by respondent Nos.1 and 2 for condonation of the said delay.

6. However, the Court below by order dt.01-07-2017 allowed I.A.No.1760 of 2016 rejecting the contentions of the petitioner. The Court came to the conclusion that sufficient cause has been made out by respondent Nos.1 and 2 for condonation of delay by placing reliance on certain decisions of this Court which have taken a view that length of delay is no matter but acceptability of explanation is the only criteria.

7. Assailing the same, this Civil Revision Petition is filed.

8. Though the learned counsel for the petitioner sought to contend that there are no proper reasons given in the impugned order for condoning the delay and allowing I.A.No.1760 of 2015, it has to be kept in mind that the period of delay is not inordinate and the suit being one for partition, the parties cannot be deprived of a right to contest when substantial stakes are involved in the matter, more particularly, when it is not disputed that there was a wedding in the family of respondent Nos.1 and 2 and the plea of illness is also raised.

9. I am of the opinion that the Court below has rightly exercised the discretion to condone the short period of delay in filing

the appeal by respondent Nos.1 and 2 and that its order does not warrant interference under Article 227 of the Constitution of India.

10. Accordingly, the Civil Revision Petition is dismissed at the admission stage. The Court below is directed to expedite the hearing of the appeal. No costs.

11. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 22-09-2017
kvr

