

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

CIVIL REVISION PETITION No.1215 OF 2017

DATED : 12.06.2017

Between :

Bojja Satyanarayana S/o.Yadagiri,
Age : 70 yrs, Occu : Agriculture & Business,
R/o.Wardhannapet village & Mandal,
Warangal District & another.

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Petitioners

And

Dugyala Prabhakar Rao S/o.Late Veera Raghava Rao,
Age : 70 yrs, Occu : Govt. Employee,
R/o.Q.No.65, Doctors Colony-II, Warangal & others.

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Respondents



This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

CIVIL REVISION PETITION No.1215 OF 2017

ORDER :

Petitioners herein are the petitioners in I.A.No.329 of 2014 in O.S.No.416 of 2007 on the file of I Additional Senior Civil Judge, Warangal and plaintiffs in the suit. Suit was filed seeking a decree to direct defendants 1 to 3 to execute the registered sale deed in favour of the plaintiffs to enforce the agreement of sale dated 06.01.1996; that the gift settlement deed dated 29.03.2007 executed by the first defendant in favour of the fourth defendant before Sub-Registrar, Wardhannapet be cancelled; to grant permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the suit schedule property and alternatively direct to pay the sale consideration of Rs.1,32,147/- with interest @ 2% p.m.

2. As seen from the order under challenge the issues were framed on 23.09.2011 and thereafter ten adjournments were granted to enable the petitioners/plaintiffs to proceed with trial. On 20.03.2013 the plaintiffs and counsel representing the plaintiffs were called absent and accordingly suit was dismissed for default.

3. Petitioner filed I.A.No.329 of 2014 praying to restore the suit. In the affidavit filed in support of the IA, it was averred that though suit was posted on 20.03.2013 for commencing the trial on condition, the first plaintiff's third finger of the right leg was

removed due to high blood sugar and was bed ridden for three months and his wife was looking after him. Therefore, due to his ill-health, he could not attend the court. Though the affidavit filed in support of the I.A, states that he was filing medical reports for perusal of the Court, the trial Court noticed that no such record was filed. Learned counsel appearing for the petitioners also fairly submits that no record was filed before the trial Court.

4. As noticed by the trial Court, the statement made in the affidavit filed in support of the I.A., to set aside the dismissal of suit for default and the averments are vague; no details are furnished as to when first petitioner became sick and for how long he took treatment. Even according to the first petitioner's statement in Para No.2 of the affidavit he was bed ridden only for three months. It is not stated atleast after three months, why he could not take steps. Further, as observed by the trial Court the second petitioner who is the wife of first petitioner/second plaintiff, could have taken steps to appear before the Court when the suit was listed or on any other subsequent date. Thus, the trial Court has not believed the version set up by the petitioners and having regard to the inordinate delay in filing the petition and as the delay was not properly explained, the trial Court dismissed the I.A.

5. Having regard to the facts noted above, I do not see any error in the decision arrived at by the trial Court, and no case is made out warranting interference of this Court.

6. Civil Revision Petition is accordingly dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Revision shall stand closed.

12th June, 2017
Rds

P.NAVEEN RAO,J

