

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CIVIL REVISION PETITION No.290 of 2017

ORDER:

This Civil Revision Petition is filed by the petitioner, under Section 115 of the Civil Procedure Code, 1908, aggrieved by the order, dated 04.01.2016, passed in I.A.No.1298 of 2015 in I.A.No.925 of 2012 in O.S.(SR).No.5529 of 2012, on the file of the Senior Civil Judge, Ramachandrapuram.

2. Heard and perused the entire material available on record.

3. The petitioner/plaintiff filed I.A.No.1298 of 2015 in I.A.No.925 of 2012 in O.S.(SR).No.5529 of 2012, under Section 5 of the Limitation Act, before the Senior Civil Judge, Ramachandrapuram, to restore I.A.No.925 of 2012, which was dismissed on 27.09.2012, wherein the learned trial Judge dismissed the I.A.No.1298 of 2015 by observing as follows:

“3. The reasons which are assigned in the petition are not just and reasonable and he simply stated that he was forced to stay outside, as such, he could not enquired about the matter. If really, he has evincing any interest in the matter, the said petition cannot be dismissed.

4. On perusal of I.A.925/2012 docket, an ample opportunity is given, even then either the petitioner or his counsel not turned up to represent the matter, at last it was dismissed on 27-09-2012. Again, this petition is filed with a delay of 997 days without any proper reasons. Therefore, there are no merits in this petition and that the petition is liable to be dismissed.”

4. Even though the order passed by the learned trial Judge is not suffered with any infirmity or perversity, this Court is

of the view that an opportunity can be given to the petitioner to pursue the suit on imposition of costs.

5. Accordingly, the Civil Revision Petition is allowed by setting aside the order, dated 04.01.2016, passed in I.A.No.1298 of 2015 in I.A.No.925 of 2012 in O.S.(SR).No.5529 of 2012, on the file of the Senior Civil Judge, Ramachandrapuram, and the delay of 997 days is condoned subject to condition that the petitioner shall pay costs of Rs.20,000/- (Rupees twenty thousand only) to the respondent herein and the I.A.No.925 of 2012 is restored to file. Miscellaneous Petitions, if any, pending in this civil revision petition shall stand closed.

RAJA ELANGO,J

Date: 15th March, 2017

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