

THE HON'BLE SRI JUSTICE RAJA ELANGO

C.R.P.M.P.No.7988 OF 2016

AND

C.R.P.No.6099 OF 2016

ORDER:

The C.R.P.M.P.No.7988 of 2016 is filed by the petitioner/plaintiff under Section 5 of the Limitation Act to condone the delay of 255 days in filing the C.R.P.No.6099 of 2016. The C.R.P.No.6099 of 2016 is filed by the petitioner/plaintiff under Section 115 of the Civil Procedure Code, against the order, dated 30.11.2015, passed in I.A.No.1291 of 2011 in O.S.S.R.No.8219 of 2007, by the Principal Senior Civil Judge, East Godavari District at Kakinada.

2. Heard and perused the material available on record.

3. I.A.No.1291 of 2011 in O.S.S.R.No.8219 of 2007 is filed by the petitioner/plaintiff requesting the learned Principal Senior Civil Judge, East Godavari District, to condone the delay of 1268 days in representing the un-numbered suit, wherein the learned Principal Senior Civil Judge dismissed the said petition by observing as follows:

“7. Though the suit is filed in the year 2007 in spite of returns and re-submission the petitioner herein has not represented the matter properly within time, there was a delay of 1268 days, the petitioner herein has no locus-standi to file application, no authorization letter is filed in support of the present I.A.

8. The delay sought to be condoned is nearly 1268 days which is abnormal and having knowledge about earlier I.A., the petitioner has not prosecuted the matter properly, there was negligence on the part of the petitioner in prosecuting

the matter, the delay is abnormal and it is not explained properly, the reason assigned by the petitioner appears as vague and un-believable.

For the afore-said reasons, on hearing arguments and in the circumstances of the matter, the court came to strong conclusion that the petitioner has not explained day to day delay in representing the file, the petition is devoid of merits and is liable to be dismissed with costs.”

4. Learned counsel for the petitioner submitted that the petitioner secured the certified copies of the dismissal orders from the lower Court Advocate and immediately taken prompt steps for restoration and as there is delay in filing revision petition also, besides the delay occurred in the lower Court and that the said delay is not due to carelessness or negligent on the part of the petitioner company, but because of the resignation and abandoning the services abruptly without proper intimation or handing over the records to the management of the company and the petitioner company could not be able to recover the outstanding dues from the defaulting subscribers, as well as the successful bidders.

5. Considering the said facts and circumstances and the submissions of the learned counsel for the petitioner, the reason for the delay explained by the petitioner is not convincing and further more, the revision itself is preferred by the petitioner against the dismissal of the application by the trial Court in I.A.No.1291 of 2011 in O.S.S.R.No.8219 of 2007, filed by the petitioner to condone the delay of 1268 days in representing the unnumbered suit before the concerned Court. Hence, this Court is of the view that C.R.P.M.P.No.7988 of 2016 is liable to be dismissed.

6. Accordingly, C.R.P.M.P.No.7988 of 2016 is dismissed. Consequently, the C.R.P.No.6099 of 2016 is also dismissed. There shall be no order as to costs. Miscellaneous petitions, pending if any, shall stand closed.

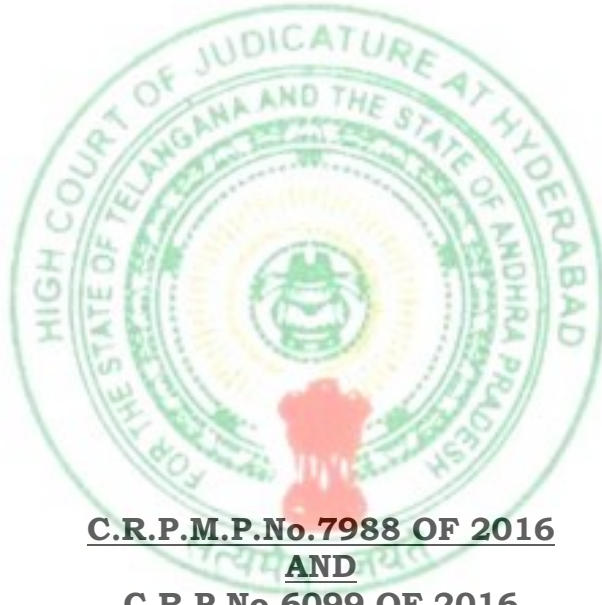
RAJA ELANGO, J

Date: 15th March, 2017

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C.R.P.M.P.No.7988 OF 2016
AND
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