

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.1596 of 2017

Date 14.07.2017

Between:

Gangireddy Subba Lakshamma and others.

... Petitioner

AND

Bhoompalli Venkata Reddy

.....Respondent



HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No. 1596 of 2017

ORDER:

The order, in I.A.No.61 of 2016 in O.S.No.31 of 2004, dated 14.02.2017, filed under Section 5 of the Limitation Act, seeking to condone the delay of 602 days in filing petition to set aside the dismissal of suit for default on 14.07.2014, is challenged before this Court.

The facts, as set out, are as under:

Petitioner No.1 filed the suit in O.S.No.31 of 2004 to declare her title in respect of plaint schedule land and, consequently, direct the defendant to deliver vacant possession of plaint schedule land. The suit was contested by the respondent, and petitioner No.1 adduced evidence and she passed away on 01.11.2013 leaving behind petitioner Nos.2 to 5. Petitioner Nos.2 to 5 contend that they were not aware of the suit filed by their mother (petitioner No.1), and did not come on record to prosecute the suit and, immediately, on coming to know about the same, they filed the present I.A.No.61 of 2016.

A counter affidavit is filed by the respondent denying the averments in the affidavit categorically asserting that petitioner Nos.2 and 3 are accused and attending court in connection with C.C.No.79 of 2008 which was disposed of on 18.03.2016; petitioners filed similar petitions, in the suit in C.F.Nos.482 to 484 of 2014 on 28.04.2014, and the said

petitions were returned to cure technical defects; as steps were not taken in time, the suit was dismissed; the present application has been filed with false allegations; and, there being no bona fides on the part of the petitioners, and the reasons assigned being not consistent, delay condonation petition is liable to be dismissed.

Having considered the respective submissions of the parties, and accepting the stand taken by the respondent to be true, learned Junior Civil Judge, Kota, dismissed the application holding that the cause shown is not *bona fide* to condone the inordinate delay of 602 days.

Heard the learned counsel for the petitioners and learned counsel for the respondent.

On 04.04.2017, this Court, having considered the fact that suit filed for declaration in respect of immovable property has been pending consideration since 2004 for some reason or other, and the same was dismissed for default, put a query to the learned counsel for the petitioners whether the petitioners are willing to pay substantial amount of Rs.1.00 lakh as just compensation for condoning the delay. Learned counsel sought time to obtain instructions from the petitioners. Today, when the matter is taken up for hearing, learned counsel for the petitioners submits that, considering the valuable nature of property, the petitioners agreed to pay Rs.50,000/- towards costs to alleviate the grievance of respondent.

Learned counsel for the respondent readily accepts the proposal put forth by this Court, and prays to pass appropriate orders.

In the facts and circumstances of the case, the suit, filed in the year 2004, for declaration of title and recovery of possession has pending all these years and, if an opportunity is given to the petitioners to prosecute the suit on merits by condoning the delay on payment of costs, no prejudice would be caused to the respondent. Petitioners are since ready to pay costs of Rs.50,000/- (Rupees Fifty Thousand Only), and subject to the condition of payment of costs, directly to the respondent, within a period of ten days from the date of receipt of a copy of this order and, on production of proof before the Court, the suit shall be restored to file. The petitioners shall complete their part of evidence and cooperate for early disposal of the case. However, learned Junior Civil Judge, Kota shall take steps for disposal of the case expeditiously, as has been mandated by the Supreme Court, that all suits pertaining to 2003-2012, shall be disposed of prior to March, 2018.

The Civil Revision Petition is, accordingly, allowed.

Miscellaneous petitions pending, if any, shall stand disposed of. No order as to costs.

CHALLA KODANDA RAM,J

Date:14.07.2017
 usd

