

HONOURABLE SRI JUSTICE RAJA ELANGO

CIVIL REVISION PETITION No.299 OF 2017

ORDER:

This Civil Revision Petition is filed by the petitioner – plaintiff challenging order, dated 29.02.2016, passed in I.A. No.214 of 2015 in O.S. No.118 of 2007, by the Senior Civil Judge, Pamachandrapuram, East Godavari District.

Heard and perused the material available on record.

The petitioner filed O.S No.118 of 2007 on the file of Senior Civil Judge, Pamachandrapuram, for the relief of recovery of possession of the plaint schedule property after evicting the defendant. The trial Court dismissed the suit for default on 04.08.2010 since the petitioner was absent on that day. Then, the petitioner filed I.A. No.214 of 2015 before the trial Court seeking to condone the delay of 1465 days in filing the application for setting aside the dismissal order passed by the trial Court. The respondent filed counter opposing the said application. The trial Court dismissed the condone delay petition vide order impugned, on the ground that there is inordinate delay in filing the application for setting aside the dismissal order and the cause for the said delay was not properly explained by the petitioner. Hence, the petitioner filed present revision.

Learned counsel for the petitioner submitted that the petitioner could not able to attend before the trial Court on 04.08.2010 since he was not informed about the date of adjournment and there was miscommunication between himself and his counsel before the trial Court and that the trial Court without considering the contentions of the petitioner, dismissed the suit for default and therefore, he requested to restore the case to file.

Learned counsel for the respondent – defendant submitted that the petitioner has failed to explain the inordinate delay caused in filing the restoration petition, that the trial Court has rightly dismissed the delay petition, and therefore, there is no need not interfere with the order of the trial Court.

This Court perused the order passed by the trial Court. While dismissing the application, the trial Court observed as follows:

“Admittedly, on 04.08.2010 the above suit is posted for adducing evidence of plaintiff on payment of costs, but, the plaintiff called absent, costs not paid and the suit is dismissed for default.

In the petition itself he contended that A.T.C.2/2004 is also pending on the same day at Principal Junior Civil Judge's Court, Alamuru, certainly, he should have knowledge about the adjournment date of this suit. But, in the petition it was averred that recently he came to know about the dismissal order, that itself is a false one and there is no iota of evidence that A.T.C.2/2004 IS PAOSTED ON 04.08.2010. So, the explanation for delay is not properly explained by the petitioner/ plaintiff and also this petition is filed after lapse of four years without any reasonable cause. At such, this petition is not maintainable and is liable to be dismissed.”

As rightly observed by the trial Court, the petitioner failed to explain the reasons for the inordinate delay of 1465 days caused in filing the application for setting aside the dismissal order and hence, this Court is of the view that the order of the trial Court needs no interference and therefore, the revision is liable to be dismissed.

Hence, the Civil Revision Petition is dismissed. No order as to costs. Miscellaneous petitions, pending if any, shall stand closed.

RAJA ELANGO, J

March 01, 2017.
KTL

