

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.2325 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order, dated 05-01-2017 in I.A.No.656 of 2015 in O.S.No.185 of 2013 passed by the V Additional District Judge, Kothagudem.

2. The 1st respondent herein filed the above interlocutory application under Section 5 of the Limitation Act, 1963 to condone the delay of 329 days in filing the application to restore the suit, which was dismissed for default on 17-12-2014 and the said application was allowed. Hence, this revision.

3. The only reason for the delay is that the suit was transferred to V Addl. District Judge, Kothagudem from Khammam and no notice was served, after transfer of the suit and the said transfer was on administrative side.

4. As there was no notice to the petitioner, the petitioner is not expected to appear before the Court to prosecute the proceedings. Therefore, in the absence of any notice, the delay has to be condoned.

5. The respondents have opposed the petition on the ground that the reasons assigned by the petitioner are not genuine and absolutely there are no grounds to condone the abnormal delay.

6. The trial Court upon consideration of contentions raised by the counsel, concluded that originally the suit was filed before the Court at Khammam and by mistake, the same was transferred to Kothagudem without notice to the respondent and after transfer, no notice was served on the respondent, ordered the petition.

7. Aggrieved by the order, the present revision is filed on various grounds mainly on the ground that no satisfactory cause was shown for non appearance before the Court by the respondent. But, the trial Court erroneously ordered the petition condoning the delay of 329 days.

8. Heard the learned counsel for the petitioners at the stage of admission.

9. It is not in dispute that the suit was originally filed before the Court at Khammam as the property is situated within the jurisdiction limits of Principal District Judge at Khammam. But on administrative side by exercising powers under Section 24 CPC, on the ground of territorial jurisdiction, the suit was transferred to Kothagudem without notice to the respondent and even after transfer, no notice was served on the respondent herein intimating about the transfer and pendency of the suit before the Court at Kothagudem. In such a case, the respondent is not expected to appear before the Court at Kothagudem to prosecute the proceedings. Therefore, the respondent was unaware about the transfer and pendency of the suit before the Court at Kothagudem. The cause shown by the respondent herein is sufficient cause which prevented her to appear before the Court. The trial Court rightly allowed the application and it is free from any legal infirmities warranting interference of this Court exercising jurisdiction under Article 227 of the Constitution of India.

10. Accordingly, the Civil Revision Petition is dismissed. No order as to costs. Miscellaneous petitions, if any pending, in this revision shall stand closed.

M.SATYANARAYANA MURTHY, J

DATED: 30-06-2017.

Hsd