

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.1689 of 2017

Date : 28-07-2017

Between:

Gindi Rhini Kumar

... Petitioner.

And

Marri Bhageeradhi and another.

... Respondents



THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**CIVIL REVISION PETITION No.1689 of 2017****ORDER:**

This Civil Revision Petition is filed under Section 115 CPC to set aside the order dated 10-01-2017 made in I.A.No.470 of 2016 in O.S.No.168 of 2015 on the file of Court of Junior Civil Judge, Naidupeta.

2. The petitioner filed O.S.No.168 of 2015 seeking permanent injunction restraining the defendants and their men from interfering with the peaceful possession and enjoyment of the plaint schedule property. The plaint schedule property happens to be a vacant site. The suit came to be dismissed for default on 30-09-2015. An application was filed by the petitioners seeking to set aside the dismissal for default order dated 30-09-2015 along with delay condonation petition of 46 days. An affidavit was filed explaining the delay by the advocate appearing on behalf of the plaintiff stating that I.A was filed seeking restoration of the I.A.No.56 of 2016 in O.S.No.168 of 2015, which was also dismissed on 09-02-2016. Such restoration application was filed with a delay of 46 days. The reasons stated by the counsel who was appearing for the plaintiff-petitioner was that he was away in Delhi in attending certain Human Rights cases.

3. Counter was filed setting out various contentions alleging that there was no diligence on the part of the petitioner in prosecuting the case. The details with respect to the delay in filing I.A No.56 of 2016 under Section 5 in filing the application under Order 9 Rule 9 was also set out. The Court below refused to condone the delay in I.A.No.470 of 2016 against the dismissal order dated 09-02-2016.

3. The CRP came up for admission on 07-04-2017 and this Court ordered notice to respondent on 09-06-2017 and also gave liberty to the petitioner to serve notices through Registered Post with Acknowledgment. Petitioner had filed proof of service vide USR No.4178 of 2017, dated 23-06-2017. In spite of service of notice, there is no representation on behalf of respondents either by person or through their counsel.

4. Having considered the respective submissions and material available on record and considering the fact that the advocate appearing for the petitioner had filed affidavit before the Court below stating that the delay was occurred on account of his being out of station on attending certain Human Rights Cases at Human Rights Tribunal, Delhi and considering the fact that the petitioner is a plaintiff agitating respective substantial rights of properties, delay of 46 days is condoned on payment of costs of Rs.2,000/- to the respondents, within one week from the date of receipt of a copy of this order.

5. With the above observation, the Civil Revision Petition is disposed of and the impugned order dated 10-01-2017 in I.A.No.470 of 2016 is set aside and restored to its file. No costs.

6. As a sequel, miscellaneous petitions, if any, pending in this civil revision petition, shall stand closed.

JUSTICE CHALLA KODANDA RAM

Date:28-07-2017.

mrb

