

HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

C.R.P.Nos.3975 & 3976 of 2017

COMMON ORDER:

These two Revision Petitions are preferred against the order dt.19-04-2017 in I.A.No.1080 of 2016 in A.S.S.R.No.4256 of 2016 and the order dt.19-04-2017 in I.A.No.1079 of 2016 in A.S.S.R.No.4258 of 2016 of the IX Additional District Judge, West Godavari at Kovvur.

2. The petitioner had filed O.S.No.78 of 2005 on the file of Principal Senior Civil Judge's Court, Kovvur for declaration of title and consequential injunction against the respondents in C.R.P.No.3975 of 2017.

3. The respondents had filed O.S.No.176 of 2007 on the file of the Principal Senior Civil Judge's Court, Kovvur for injunction against the petitioner.

4. The suit O.S No.176 of 2007 was decreed on 29-04-2013 but the suit O.S.No.78 of 2005 was dismissed on the same day by a common order.

5. Assailing the judgment in O.S.No.176 of 2007, the petitioner filed A.S.S.R.No.4258 of 2016 and assailing the judgment in O.S.No.78 of 2005, he filed A.S.S.R.No.4256 of 2016 on the file of IX Additional District Judge, West Godavari at Kovvur. Since these appeals are filed with delay of 1119 days, petitioner filed I.A.No.1079

of 2016 in A.S.S.R.No.4258 of 2016 and I.A.No.1080 of 2016 in A.S.S.R.No.4256 of 2016 under Section 5 of the Limitation Act to condone the said delay in filing the said appeals.

6. In the affidavit filed in support of these applications, it is stated that on account of severe ill health, petitioner could not meet his previous counsel to file appeals and he was advised to take complete bed rest. He stated that he met his previous counsel and took the papers and approached the present counsel. He informed him that the suits were decided on 29-04-2013 and thus the delay occurred.

7. Counter affidavit is filed by the respondents opposing the applications for condonation of delay. It is stated that the delay is abnormal, that the plea of ill health is also not correct and no sufficient cause has been shown for condonation of delay.

8. Before the Courts below, the petitioner filed Certificate of Medical Officer, Community Health Centre, Kovvur, West Godavari, showing that he was provided treatment for tuberculosis from 01-01-2014 for six months. He also filed Medical Certificates dt.13-02-2015 and 15-01-2016 stating that he suffered from other ailments.

9. By separate orders dt.19-04-2017, the Court below dismissed both applications. It stated that if the petitioner was fit to attend duties from 16-01-2016 as per the Medical Certificate dt.15-01-2016, petitioner has to explain why he filed present

applications on 19-08-2016 after waiting for 7 months after he was restored to good health. It held that the delay is abnormal and the petitioner did not give sufficient reason for condonation of the same.

10. Though the learned counsel for the petitioner sought to contend that the valuable property is involved in the revision and the petitioner should be allowed to contest the same, I am not satisfied that the petitioner had shown sufficient cause for condonation of delay. If the judgments in the suits were rendered on 29-04-2013, and his treatment for tuberculosis commenced from 01-01-2014, petitioner should explain why he kept quiet between 29-04-2013 and 01-01-2014 and also after 16-01-2016 till 19-08-2016 when he filed those applications.

11. Therefore, I see no reason to interfere with the exercise of discretion of this Court in presenting these applications to condone delay in filing the said appeals.

12. Accordingly both the Civil Revision Petitions are dismissed. No costs.

13. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 11-08-2017
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