

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.707 OF 2017

ORDER:

Challenge in this revision petition is to the order, dated 05.01.2017, passed in I.A.No.102 of 2016 in O.S.No.63 of 2014 on the file of learned Senior Civil Judge, Kamareddy, dismissing the petition filed for condonation of delay of 432 days in filing the petition for setting aside the *ex parte* decree, dated 08.12.2014, passed in the said suit.

2. Heard Sri T. Sujan Kumar, learned counsel for the petitioner—petitioner – defendant, and perused the material on record.

3. The ground agitated before the learned Senior Civil Judge was that the petitioner was suffering from white jaundice and that disabled him from attending the Court or reporting to his counsel on record and, therefore, sought to condone the delay of 432 days in filing the petition to set aside the *ex parte* decree passed against him in the aforesaid suit.

4. The *ex parte* decree was passed on 08.12.2014. The Court below, having examined thoroughly the reasons assigned by the petitioner, arrived at the opinion that there was no plausible or convincing reason to justify sufficient cause to condone the delay and thereby, dismissed the aforesaid Interlocutory Application by the

order, dated 05.01.2017. That order has been under challenge in the present revision petition.

5. The present revision petition is being disposed at the admission stage itself.

6. Learned counsel for the petitioner would submit that, since, the petitioner has taken treatment under a private medical practitioner and not taken any allopathic treatment, there was no proof to show that he did suffer from white jaundice, but the fact is that he was suffering from white jaundice and was bed ridden and, as such, he could not immediately file the petition for setting aside the *ex parte* decree.

7. A perusal of the counter filed in the I.A. would disclose that the respondent – decree holder resists the cause shown by the petitioner. In fact, the respondent has filed two E.Ps. First E.P. was frustrated on account of petitioner evading to receive notice and finally, it came to light that the petitioner did not possess any movable properties. Of course, there is no need to refer to or probe into what could be the reason as to whether he shifted the movable properties or otherwise. Thereafter, the respondent filed another E.P. vide E.P.No.43 of 2015 and in that E.P. also notice was evaded by the petitioner and later, the executing Court issued arrest warrant and bailiff made attempts to execute the warrant. Still, he found the door locked for number of times. That has been the strong resistance

offered by the respondent. It appears, the petitioner was intentionally evading to receive the notice. Even in the E.Ps., it appears, in the first E.P., notice was served on him. In the second E.P., at some point of time, notice was served on him. When, kept in view, it has to be held that the petitioner, only with a view to stall the proceedings in the E.P. has come up with the present request to condone the delay in filing the petition to set aside the *ex parte* decree passed against him. Absolutely there is no sufficient cause at all, as there is no documentary proof to condone the huge delay of 432 days. Thus, there is no merit in the present revision petition.

8. Therefore, the revision petition is dismissed at the admission stage. Miscellaneous Petitions, if any, pending in this revision petition shall stand closed. There shall be no order as to costs.

July 28, 2017.
MD

A. SHANKAR NARAYANA, J