

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

Civil Revision Petition No.5036 of 2012

ORDER:

This Civil Revision Petition is filed challenging the order, dated 22.06.2012, passed in I.A.No.86 of 2012 in I.A.No.279 of 2009 in E.A.S.No.Nil of 2009 on the file of the District Judge, Anantapur.

2. Heard Sri Y.Ashok Raj, learned counsel for the petitioner.

3. This is a case where the petitioner herein has filed I.A.No.86 of 2012 to set aside the order, dated 08.03.2011, wherein, the Court below had dismissed I.A.No.279 of 2009 for default. It has been contended by the counsel for the petitioner that the counsel who appeared before the Court below had wrongly entered the date of hearing and hence, the petitioner could not be present when the case was called on 08.03.2011 to participate in the enquiry and consequently, he had filed I.A.No.86 of 2012 with a delay of 17 days.

4. As can be seen from the record, the petitioner had initially filed an application before the Settlement Officer, Anantapur, requesting to grant Patta in respect of the land claimed to have been purchased by him through a sale deed, dated 09.04.1970. The Settlement Officer, Anantapur, by order, dated 28.10.2000, passed in SR.No.8/15(1)/1988, refused to grant patta in favour of the petitioner. Aggrieved by the same, the petitioner preferred an appeal in E.A.S.No.3 of 2001 before the Estate Abolition Tribunal –

cum – District Judge, Anantapur, and the learned District Judge, Anantapur, vide order, dated 16.04.2008, dismissed the appeal and confirmed the order, dated 28.10.2000, of the Settlement Officer, Anantapur. Aggrieved by the same, the petitioner filed W.P.No.9181 of 2009 before this Court and this Court, vide order dated 30.04.2009, disposed of the said writ petition with the following observations:-

“The learned counsel for the petitioner submits that his client withdraws the application as well as the appeal and that the same may be recorded. The same is recorded and as a result, the orders passed by the Settlement Officer as well as the Tribunal in the appeal, on the application as well as the appeal, are set aside. It shall be open to the petitioner to file an appeal before the Tribunal against the order, dated 20-11-1969, with an application to condone the delay. As and when it is filed, the matter shall be dealt with, on its own merits. The delay would, no doubt, be enormous, but the explanation of the petitioner that he has been pursuing the matter all through and the consent, if any, on the part of the contesting respondents for condonation of delay, shall be taken into account by the Tribunal. Depending upon the outcome of the application for condonation delay, the petitioner can make efforts for grant of patta in his favour.”

5. The order passed by this Court in W.P.No.9181 of 2009 necessitated the petitioner to come up before the Court below and file I.A.No.279 of 2009 with a delay of 39 years 7 months in preferring an appeal against an order of settlement, dated 20.11.1969.

6. I have examined the case and in my opinion, it would be better if the Court below hears the delay petition in I.A.No.279 of 2009 on merits and decide the issue instead of non suiting the petitioner on small technicalities and adjudicate I.A.No.279 of 2009 on merits after giving opportunity to all the parties.

7. Accordingly, the Civil Revision Petition is allowed. Consequently, I.A.No.86 of 2012 is allowed and I.A.No.279 of 2009 is restored to file. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

ABHINAND KUMAR SHAVILI, J

27th October, 2017
Bvv

