

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

C.R.P.No.5198 OF 2017

ORDER

This Civil Revision Petition is directed against the order dated 31.08.2017 passed in I.A.No.167 of 2012 in O.S.No.20 of 2001 on the file of the Junior Civil Judge, Kota.

The petitioners are the defendants and the respondent is the plaintiff.

The plaintiff filed the said suit for partition and separate possession of her 1/10th share against the defendants and an *ex parte* decree was passed on 5.8.2006. For setting aside the said *ex parte* decree and for restoration of suit, the defendants filed I.A.No.225 of 2010 and the same was allowed on payment of costs of Rs.300/- on 16.03.2012. But, as the defendants did not choose to pay the said costs as directed, the trial Court dismissed the petition on 18.4.2012. I.A.No.167 of 2012 was filed seeking to condone the delay of 31 days in filing the petition under Order 9 Rule 9, Section 141 and Section 151 CPC for setting aside the *ex parte* dismissal order for non-payment of costs of Rs.300/- and the same was dismissed on 31.08.2017. Aggrieved by the same, the present Civil Revision Petition is filed.

It is not known as to why the application of 2012 was disposed of by the trial Court after five years.

Be that as it may, the application in I.A.No.225 of 2010 for setting aside the order dated 5.8.2006 is pending before the trial Court and since the present application is filed only seeking to condone the delay of 31 days, in setting aside the order of dismissal dated 18.4.2012, in the interest of justice, the application is allowed on payment of costs of Rs.1000/- payable to the respondent within one week from the date of receipt of a copy of this order. On such payment, the trial Court shall consider the application for setting aside the order dated 18.4.2012 and pass appropriate orders thereon, in accordance with law.

Accordingly, the Civil Revision Petition is allowed by setting aside the order passed in I.A.No.167 of 2012 in O.S.No.20 of 2001. If the petitioners-defendants fails to deposit the said amount of Rs.1,000/- to the credit of the plaintiff in the suit, no further steps need be taken by the trial Court.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

17th November, 2017
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