

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.5408 of 2011

ORDER :

Heard both sides.

2. Perused the impugned order of the Principal Junior Civil Judge, Proddatur, dated 02.07.2011, in I.A.No.478 of 2010 in O.S.No.70 of 2004. The suit was dismissed for default on 18.04.2006. The suit O.S.No.70 of 2004 is filed for permanent prohibitory injunction with the claim of petitioner-plaintiff against two defendants of their interference to be prevented with reference to the plaint schedule immovable property. A petition is filed to restore the suit along with another application under Order IX Rule 9 C.P.C. mainly to condone the delay of 922 days. The reason assigned in the application in I.A.No.478 of 2010 to condone the delay of 922 days in filing the petition to restore the suit is that the plaintiff-petitioner was suffering from Tuberculosis (TB) and undergone treatment. No material is placed about he was attacked with TB and undergone some treatment. However, there is no day-to-day explanation for all the period of about three years for not filing the suit for restoration that too when saying he earlier attended in the suit posted for trial on 18.04.2006 and on 15.04.2006 due to attack of TB, he could not attend the Court and on 18.04.2006 the suit was dismissed for default.

3. Having regard to the above, there is nothing to interfere with the said dismissal order of the lower Court even outcome of the pragmatic approach in condoning the applications for delay for the

facts clearly show sheer negligence is the out come in not seeking restoration of the suit early.

4. Accordingly and in the result, the civil revision petition is dismissed. Needless to say, there may not be any bar for filing a fresh suit for injunction if at all.

Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

3rd November 2017.

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Dr. B. SIVA SANKARA RAO, J

