

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION NO.3320 of 2017

ORDER :

Heard learned counsel for the petitioners. In spite of service of notice which is said to have been served on 20.07.2017, there is no representation on behalf of respondents.

Aggrieved by the order dated 20.06.2017 passed in I.A.No.201 of 2016 in O.S.No.147 of 2011, wherein an application seeking condonation of delay of 22 days in filing the application to set aside the *ex parte* decree dated 04.08.2015, was dismissed, the present Civil Revision Petition is filed.

The facts in issue are as under:

The first respondent herein, filed O.S.No.147 of 2011 seeking a direction to the defendants to vacate and surrender vacant possession of the plaint schedule premises to the plaintiff. When the suit was coming for evidence on behalf of respondents, they could not adduce the evidence and the same was closed. Further, the applications filed by them were dismissed and the main suit was decreed *ex parte* on 04.08.2015. Subsequently, the defendants filed a petition under Section 5 of the Limitation Act, read with Section 151 of CPC, seeking condonation of delay of 22 days in filing a petition, to set aside the decree dated 04.08.2015, which was numbered as I.A.No.201 of 2016 in O.S.No.147 of 2011. After considering the matter in detail, the trial Court dismissed the application. Aggrieved thereby, the present C.R.P. came to be filed.

Learned counsel for the petitioners/ defendants mainly submits that the reason for delay of 22 days was only due to ill-health of the first petitioner, who is an aged person. It is stated that he has also produced medical certificate before the Court below showing the health condition of the first petitioner. Further, he submits that the trial Court may be directed to fix a date for appearance and adduce evidence on that date. The petitioners submit that they will co-operate for disposal of the case on the said day.

Having regard to the statement made by the learned counsel for the petitioners and since the delay was only 22 days, the CRP is disposed of directing the trial Court to fix a date on which day the defendants shall appear, in which event, the petitioners shall co-operate for disposal of the case, at the earliest. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

17.08.2017

Note:

Issue CC in three days.

B/ o.

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