

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL MISCELLANEOUS APPEAL No.521 OF 2017

ORDER:

This appeal is filed under Rule 1 of Order XLIII of the Code of Civil Procedure, 1908 challenging the order dated 30.03.2017 in I.A. No.164 of 2015 in O.P. No.39 of 2014 passed by the Senior Civil Judge, Siricilla, whereby the trial court dismissed the petition declining to restore the O.P. to its original number.

The petitioner filed O.P. No.39 of 2014 to dissolve the marriage under Section 13(1)(i)(a) of the Hindu Marriage Act, 1955 by decree of divorce. The petition was posted to 02.04.2015 for evidence of the petitioner, but he was absent on that day thereby the petition was dismissed for default.

The only ground urged by the counsel for the petitioner before the trial court is that the petitioner suffered from ill health. The affidavit of the petitioner also did not disclose since how long he was suffering from ill health and other details. Moreover the petition was filed after 8 days from the date of dismissal, but without enclosing any medical certificate to substantiate his contention that he suffered from ill health, the cause which prevented the petitioner beyond his control, from appearing before the court.

In the absence of any material to substantiate the contention of the petitioner, the petition cannot be allowed on mere asking based on bold allegations. Hence, I find no illegality in the order under challenge and the trial court rightly dismissed the petition. Therefore the appeal is devoid of merits.

In the result, the appeal is dismissed at the stage of admission.

Miscellaneous Petitions, if any, pending in the civil miscellaneous petition shall stand closed.

M.SATYANARAYANA MURTHY,J

Date:29.06.2017
BV

