

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Civil Revision Petition No.5498 of 2017

Date: 20.10.2017

Between:

Ketha Srinivasa Rao

..... Petitioner

and

Ketha Govinda Rao and 5 others

.....Respondents

Counsel for the Petitioner: Mr.K.Purushotham

The Court made the following:



Order:

The 5th defendant in OS.No.1153 of 2007, filed by respondent No.1 for partition on the file of the II Additional Senior Civil Judge, Visakhapatnam, filed this Civil Revision Petition with a delay of 145 days in filing the same. The necessity of considering the application for condonation of delay is obviated for the reason that I do not find any merit in the Civil Revision Petition itself.

The petitioner along with other defendants *i.e.*, respondent Nos.2 to 6 appeared to have been set *ex parte* and an *ex parte* decree was passed as far back as 12-06-2008. Evidently, the other defendants have not pursued the matter further. However, the petitioner filed an application for setting aside the *ex parte* decree. He has also filed IA.No.788 of 2010 for condonation of delay of 835 days in filing the said Application on the plea that after receipt of summons, he has engaged a Counsel to defend his case; that during the course of shifting of his Counsel's office, his file was misplaced; and that only after receiving notice in the final decree proceedings, he came to know about the passing of the *ex parte* decree.

The lower Court has termed the above explanation as “absurdly disproportionate to the length of the delay”. It has referred to the counter-affidavit filed by respondent No.1 in the application filed by the petitioner for condonation of delay wherein it is averred that the petitioner and respondent No.6/defendant No.6 filed OS.No.86 of 2006 in the Court of the VI Additional Senior Civil Judge, Visakhapatnam; that in that case, the petitioner has been regularly attending the Court; and that he had also got examined himself as PW.1. Respondent No.1 has, accordingly, pleaded that the petitioner has been in regular touch with his Counsel and that he had the knowledge of passing of the *ex parte* decree.

On considering the above facts, the Court below has dismissed the Application by observing that the petitioner failed to offer proper explanation for condoning the long and inordinate delay.

Having heard Mr.K.Purushotham, learned Counsel for the petitioner, and considering the explanation offered by the petitioner and the reasons assigned by the lower Court for rejecting the said Application, I do not find any jurisdictional error in the order of the lower Court.

Hence, the Civil Revision Petition is dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.7131 of 2017, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 20th October, 2017
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