

HON' BLE SRI JUSTICE SURESH KUMAR KAIT

C.R.P. No. 6496 of 2017

ORDER:-

This Civil Revision Petition is filed assailing the order dated 06.07.2017 in I.A.No. 498 of 2017 in O.S.No. 87 of 2008 passed by the Senior Civil Judge, Bapatla whereby the Interlocutory Application filed by the 1<sup>st</sup> respondent herein under Section 22 Rule 9 C.P.C. to implead her as legal representative of the 2<sup>nd</sup> defendant – deceased in the main suit by setting aside the abatement order passed against the 2<sup>nd</sup> defendant, was allowed with costs.

The learned counsel for the petitioner – 1<sup>st</sup> defendant submits that the delay of 286 days in filing the application under Section 22 Rule 9 C.P.C., was not properly explained by the 1<sup>st</sup> respondent, and the trial Court, without considering this aspect, erroneously allowed the application.

The 1<sup>st</sup> respondent herein claimed herself as class-I legal heir of her husband – deceased and she came to know about the suit proceedings in the month of March, 2017 and thereafter obtained certified copy of the order in filing the I.A.No. 498 of 2017.

It is not in dispute that no counter affidavit was filed by the petitioner in I.A.No. 498 of 2017. Moreover, the learned counsel for the petitioner – 1<sup>st</sup> defendant has failed to satisfy

this Court as to why counter affidavit in I.A.No. 498 of 2017 was not filed. Therefore, considering the reasons assigned by the 1<sup>st</sup> respondent, the trial Court condoned the delay of 286 days in filing I.A.No. 498 of 2017. Being aggrieved, the present Civil Revision Petition is filed.

Condonation of delay by the Court depends on the facts and circumstances of each case. If the Court is convinced that the delay occurred was due to the reasons stated in the accompanying affidavit of the petition or in the interest of justice, the Court has power to condone the delay. In the present case, the 1<sup>st</sup> respondent herein claimed herself as class-I legal heir of her husband (deceased), the 3<sup>rd</sup> respondent herein, as such, she filed the petition to condone the delay of 286 days in filing the present Interlocutory Application.

Keeping in view the facts recorded above, I find no illegality or perversity in the impugned order warranting interference by this Court.

Hence, there is no merit in this Civil Revision Petition, and the same is accordingly dismissed. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

SURESH KUMAR KAIT, J

30.11.2017

bcj