

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

C.R.P.NO.828 OF 2014

ORDER:-

This court has heard Sri Tejeswara Rao, learned counsel representing Sri P.Suresh Kumar, learned counsel for the revision petitioner. He argued that the application is filed by the G.P.A. Holder of the original defendant in the suit. According to him, the deponent did not receive the notice at all of filing of the suit and that the notice was sent to the wrong address. Therefore, according to the learned counsel for the petitioner, the delay occurred. He submits that the lower court wrongly dismissed the application and did not pass the proper orders in the same. According to the learned counsel for the petitioner, because the principal is living in Australia, the delay also occurred. Therefore, it is his contention that the order passed by the lower court is unsustainable. He prays that the same be allowed.

2. This court notices that the order passed by the lower court is a detailed order. The affidavit filed in support of the application in the lower court states that the petitioner himself is the defendant in the suit. This was stated in para.1 of the affidavit. In para.2 of the affidavit, the deponent states that he is a G.P.A. Holder. In para.4 the G.P.A. Holder states that he has not received any notice in the suit and that the notice sent by the plaintiffs was to the wrong address. As rightly noticed by the court, the status

of the petitioner/deponent is not clearly established. It is apparent that before the application is filed, no permission, as contemplated under Rule 32 of Civil Rules of Practice, is filed in the lower court. The GPA was also not filed along with revision papers. The GPA which was filed shows that it is executed in July 2010. Thereafter, the deponent should have taken steps to obtain the permission of the court to appear as an agent to the principal. Therefore, the lower court rightly held that in the absence of any permission and also due to the failure to file GPA into the court, he has no *locus standi* to file this petition.

3. The lower court also noticed that there is absolutely no evidence to show that the deponent's wife is currently the owner of the property as averred in para.6 of the affidavit. The said agreement is also supposedly dated 18-08-2003. The same is also not filed.

4. There is no explanation for the delay of 803 days also. The Hon'ble Supreme Court of India time and again has clearly drawn a distinction between the cases where there is some delay and cases of huge delay. In cases of huge delay, the same should be very carefully explained and the court should also very carefully scrutinize the same. In the case on hand, there is virtually no explanation as to why the delay occurred. The status of the deponent and his *locus standi* to represent the original party are in doubt.

Rule 32 of Civil Rules of Practice was not followed. This court is, therefore, of the opinion for all the above reasons, that no merits in the revision petition and the same is liable to be dismissed.

Hence, the Civil Revision Petition is dismissed. No costs. The interlocutory applications pending, if any, shall stand closed in consequence.

06-12-2018
TSNR

D.V.S.S.SOMAYAJULU,J

