

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO
CIVIL REVISION PETITION Nos. 2131 AND 1931 of 2018
COMMON ORDER:

These two Civil Revision Petitions are being disposed of by this common order as they arise out of the proceedings in O.S.No.45 of 2013.

Petitioner herein is the defendant in the suit. Respondent herein filed the suit for recovery of money based on promissory note. It is stated that an *ex parte* decree was passed on 05.08.2013. Petitioner herein filed I.A.Nos.196 and 197 of 2017 seeking condonation of delay and for setting aside *ex parte* decree on 18.11.2016 respectively. These two petitions were dismissed as the petitioner could not pay costs of Rs.100/- ordered in I.A.No.196 of 2017. After dismissal of those petitions on 18.02.2016, petitioner filed I.A.No.285 of 2017 for condoning the delay of 109 days for setting aside the order of dismissal dated 18.12.2016 and I.A.No.286 of 2017 for setting aside the dismissal order in I.A.No.196 of 2017 dated 18.11.2016. When these two applications were dismissed by separate orders on 24.01.2018, the present Civil Revision Petitions are filed.

A perusal of the order passed by the Trial Court shows that after obtaining an *ex parte* decree, the plaintiff filed E.P.No.262 of 2013. As per the affidavit filed in

support of the application in I.A.No.197 of 2015, it is clear that the petitioner woke up only when she received notices of attachment from the Court. In support of her application for setting aside the *ex parte* decree, she stated that her counsel came to her house and noticed that the door was locked and hence could not intimate the date of adjournment for filing the written statement. The relevant portion of the affidavit filed in support of the application for setting aside the *ex parte* decree is as follows:

“I submit that as I was carrying fish business in fish market, in that connection, I used to go to villages to secure it and I am away from the house most of the day time and during night time. I gave my residential address to my counsel. About ten days back I have received attachment notice from the Hon’ble Court and I came to know that the respondent obtained decree against me. Later on I met my counsel and enquired about the passing of it he told me that he that he went to my house and found door lock. Hence he could not intimate the date of adjournments for filing the written statement. There are no laches on part of me in not filing the written statement within the time. The reasons beyond my control as stated above prevented me from doing so. Taking advantage of *ex parte* decree the respondent initiated execution proceedings. I have got good case to succeed in the above suit.”

Along with the said application she also filed a written statement. In the written statement, she admitted execution of promissory note for an amount of Rs.1.00 lakh. It is also clear that the plaintiff issued a legal notice and the defendant did not respond to the same. When the application for setting aside the *ex parte* decree was dismissed, petitioner did not take steps but filed the present applications seeking condonation of delay of order

of dismissal and for setting aside the ex parte decree. The petitioner is trying to drag on the suit proceedings. This Court sees no *bona fides* in the applications filed by the petitioner though learned counsel for the petitioner sought for allowing the revisions to contest the case as the petitioner tried her level best to procrastinate the litigation.

The Civil Revision Petitions are dismissed at admission stage.

Miscellaneous petitions pending, if any, shall stand dismissed. No order as to costs.



A.RAMALINGESWARA RAO

Date: 13.04.2018
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