

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition Nos.2219 and 4416 of 2018

COMMON ORDER:

Aggrieved by an order passed in the execution proceedings, directing Non-Judicial stamp papers to be engrossed on a sale deed executed in pursuance of a decree for specific performance, the judgment debtor in the suit has come up with C.R.P.No.2219 of 2018.

2. Subsequent to the filing of the above revision petition, an application filed by the judgment debtor seeking condonation of the delay of 519 days in setting aside the *ex parte* decree was allowed by the trial Court, as against which the plaintiff/decreed holder has come up with C.R.P.No.4416 of 2018. Therefore, both of them were taken up together for hearing.

3. Heard Mr. Sai Gangadhar Chamorthy, learned counsel appearing for the revision petitioner-judgment debtor in C.R.P.No.2219 of 2018 and Mr. Suresh Kumar Reddy Kalava, learned counsel appearing for the revision petitioner-decreed holder in C.R.P.No.4416 of 2018.

4. Let me take up the revision petition arising out of condonation of delay in seeking to set aside the *ex parte* decree. The delay was 519 days. The delay was sought to be explained by the defendant on two grounds namely that his daughter and son-in-law became seriously indebted and that he had to bail them out by standing as a guarantor in several cases and by signing on blank promissory notes, cheques etc. It is claimed by the defendant that in

the circumstances in which his daughter and son-in-law were placed, he was compelled to leave Vijayawada and live in Hyderabad. The second reason stated by him is his ill-health.

5. The court below believed both these grounds and condoned the delay. The question of condonation of delay primarily depends upon the individual facts and circumstances of every case and some amount of discretion is left to the court. The court below has condoned the delay upon payment of costs. Costs have also been stated to have been paid.

6. More over this is a case where the judgment rendered by the court *ex parte* shows that not even a single point was framed for consideration. Therefore, I do not find any material irregularity in the order of the court below condoning the delay in seeking to set aside the *ex parte* decree. Hence, C.R.P.No.4416 of 2018 deserves to be dismissed.

7. Coming to the other revision, which arises out of an order passed in the execution proceedings, the decree-holder produced a copy of the sale deed showing that the sale deed was engrossed on Non-Judicial stamp papers and was also registered. In such circumstances, I do not wish to set aside the said order as the same may lead to further complications.

8. Therefore, C.R.P.No.2219 of 2018 is disposed and C.R.P.No.4416 of 2018 is dismissed. However, it is made clear that the further proceedings in the E.P. shall not go on until the suit is taken up for disposal. The court shall take up the application for setting aside the *ex parte* decree, decide it at the earliest and then

proceed with the hearing of the suit. Since the suit is of the year 2015, the same shall be disposed of on merits within a period of three months. The judgment debtor shall file his written statement within a period of two weeks of the court below setting aside the *ex parte* decree. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

Date: 14-09-2018

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