

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

CIVIL REVISION PETITION No. 481 of 2014

ORDER:

This civil revision case is filed questioning the common order dated 18.12.2013 passed in I.A.No.549 of 2013 in OS No.57 of 2007 by the Senior Civil Judge, Bodhan.

Revision petitioner is defendant No.1 in the above suit, which was filed by respondent No.1/plaintiff for cancellation of registered sale deed vide document No.1081/2005, dated 16.4.2005 and for recovery of possession of 'A' schedule property and for permanent injunction. After the suit was filed, revision petitioner/defendant No.1 received Court summons and through counsel she filed vakalat. Thereafter, she fell ill and her daughter took her to Hyderabad and she did not appear before the court below and an ex-parte decree was passed. The revision petitioner got knowledge of the ex-parte decree only on 01.06.2012 when she received court summons in EP No.11 of 2012. Immediately, she filed IA No.549 of 2013 to condone the delay of 1460 days in filing the application to set aside the exparte decree. The respondent No.1 filed a counter denying the averments in the suit. The court below considering the fact that the enormous delay of

1460 days i.e., nearly four years in filing the application is not satisfactorily explained; dismissed the application.

Learned counsel for revision petitioner/1st defendant would submit that she is an aged woman of aged about 81 years and not well educated and that due to ill-health she is living in Hyderabad with her daughter for taking treatment. In addition, the Advocate engaged by her in the court below did not clearly inform her about the pendency of the case. For all these reasons, cumulatively, there is delay of 1460 days in filing the application prayed to afford an opportunity to the petitioner to contest the suit by allowing the revision petition case on payment of costs.

Though the respondents were served, they did not appear before this Court.

On perusing the impugned order, it is noticed that the essential reason why the application is dismissed by the court below is that it was not convinced with what is stated in the affidavit filed in support of the application to condone the delay. The main ground urged by the revision petitioner is that she did not receive any notice in the suit and that respondent No.1/Plaintiff has managed the Process Server showing on the court records that as if she was served with court notice. Due to

her non-appearance, the ex-parte decree was passed against her. As per court record, revision petitioner/defendant No.1, appeared on the first date of hearing i.e, on 20.09.2007 through her counsel, Sri C.Gopal Reddy, who filed vakalat on her behalf and that she filed a counter in IA No.337 of 2007 which was filed by plaintiff seeking temporary injunction and after hearing both sides, the said application was allowed on 12.11.2007. The court also noticed that on subsequent dates, despite opportunities, the revision petitioner failed to file written statement in the suit and ultimately she was set exparte on 17.7.2007 and later the suit was decreed on 3.11.2008. It is for this reason alone, the court below dismissed the application for condonation of delay of 1460 days holding that what is stated by the revision petitioner in her written statement is palpably false.

Despite clear findings in the impugned order, nothing was stated in the grounds of revision about the service of notice or her appearance through counsel or about the counter filed in IA No.337 of 2007. A duty is cast upon the revision petitioner to raise all her contentions in the grounds of revision, but the same was not done.

In view of the above facts and circumstances of the case, this court comes to a conclusion palpably false affidavit is filed by revision petitioner/defendant No.1 and a person, who files a false statement, is not entitled for any sympathy. Therefore, there are no grounds to interfere with the order passed by the court below.

Accordingly, the civil revision case is dismissed. No costs.

Miscellaneous petitions if any pending, shall stand closed.

Dt. 15.12.2018
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