

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.3147 of 2018

ORDER:

Vide the present petition, petitioner/defendant has challenged order dated 25.01.2018 passed in I.A.No.807 of 2016 in O.S.No.34 of 2016 on the file of the Additional Senior Civil Judge, Narasaraopet, whereby the application filed by him under Section 5 of the Limitation Act, to condone the delay of 137 days in filing petition to set aside ex parte decree dated 16.03.2016, has been dismissed.

Admittedly, petitioner is a Doctor. The application to condone the delay was filed on the ground that he fell sick. Except the same, there is no reasonable explanation for 137 days delay. He failed to mention whether he attended his official duties or he was on leave for 137 days. These questions are unanswered. It appears, the petitioner deliberately avoided the proceedings of the court with an intention to delay the process of law.

In the case of *Balwant Singh v. Jagdish Singh*¹, the Supreme Court issued certain guidelines to trial courts to be followed while adjudicating bona fides of cause of delay pleaded by the applicants.

The said guidelines emphasize that explained delay should be clearly understood in contradistinction to inordinate and unexplained delay. Delay is just one of the ingredients which has to be considered by the court. In addition to the same, the court must also take into account the conduct of the parties, bona fide reasons for condonation of delay and whether such delay could easily be avoided by the applicant

¹ 2010 (5) ALD 97 (SC)

acting with normal care and caution. It is the requirement of law that the application cannot be allowed as a matter of right and in a routine manner; an applicant must essentially satisfy the said ingredients and only in such an event, the court would be inclined to condone the delay in filing such application.

The petitioner/defendant failed to give sufficient and plausible reasons explaining the delay of 137 days in filing the petition to set aside the ex parte decree dated 16.03.2016.

In that view of the matter, the trial court rightly rejected the application filed by the petitioner/defendant seeking condonation of delay.

Therefore, I find no ground to interfere with the order under challenge, in this petition under Section 115 of CPC.

Petition is devoid of merits and is accordingly dismissed. No order as to costs.

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

SURESH KUMAR KAIT, J

June 15, 2018
MRR