

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.3865 OF 2018

ORDER:

This civil revision petition is filed questioning the order in I.A.No.11 of 2016 in O.S.No.14 of 2014 dated 01.05.2018 passed by the Principal Senior Civil Judge, Rajampet, YSR Kadapa District.

The respondents herein filed I.A.No.11 of 2018 before the Principal Senior Civil Judge, Rajampet under Section 5 of the Limitation Act to condone the delay of 166 days in filing the petition under Order IX Rule XIII C.P.C.

Before the Trial Court, I.A.No.11 of 2016 was opposed by the petitioner/respondent on the ground the petitioners did not explain each and every day's delay and thereby, abnormal delay of 166 days cannot be condoned and prayed to set-aside the order.

The Court below, having satisfied with the reasons stated by the respondents herein, condoned the delay of 166 days and allowed the application, subject to payment of costs of Rs.3,000/- to the respondent on the next date of adjournment i.e. 06.06.2018, where the petitioner/respondent suffered an exparte decree. Now, the present civil revision petition is filed on the ground that the reason assigned by the petitioners therein is different and the reason accepted by the Trial Court is different and in the absence of any reasonable cause for non-appearance of these petitioners, the Court cannot condone the delay of 166 days in filing the petition under Order IX rule 13 C.P.C and prayed to set-aside the order passed by the Court below.

During hearing, learned counsel for the petitioner Sri Srinivas Emani reiterated the contentions, whereas, Smt. N. Revathi supported the order of the Court below in all respects.

As seen from the allegations made in the affidavit filed along with the petition, the reason for the respondents/petitioners failure to appear before the Court is that his counsel did not furnish the correct date of adjournment, thereby, prevented them to appear before the Court and suffered an exparate order. Whereas, the respondents/petitioners case was denied by the petitioner herein. However, the Trial Court believed the cause shown by the respondents/petitioners and condoned the delay of 166 days and allowed the application, subject to payment of costs of Rs.3,000/- to the respondent on the next date of adjournment i.e. 06.06.2018, which is purely discretionary in nature.

The petitioner herein/respondent filed the present civil revision petition to set-aside the order passed by the Court below, as there is no reasonable cause for his non-appearance before the Court below on the date of adjournment, which is beyond his reasonable control. When the counsel appearing in the Court below for the petitioner herein/respondent did not furnish the exact date of adjournment, it can be said to be a reasonable cause, as it is beyond their reasonable control to know the date of adjournment and appear before the Court. Hence, the Trial Court rightly exercised discretion in condoning delay of 166 days in filing petition under Order IX rule 13 C.P.C. Therefore, it is not a fit case to interfere with the order passed by the Trial Court by exercising power under Article 227 of the Constitution of India, which is

limited. Article 227 of Constitution of India deals with power of superintendence by the High Court over all Subordinate Court and Tribunals. The power of superintendence conferred upon the High Court by Article 227 is not confined to administrative superintendence only, but includes the power of judicial revision also even where no appeal or revision lies to the High Court under the ordinary law, rather power under this Article is wider than that of Article 226 in the sense that it is not subject to those technicalities of procedure or traditional fetters which are to be found in certiorari jurisdiction and such power can also be exercised suo motu. It is a well settled principle that the High Court can exercise supervisory power under Article 227 of Constitution of India, as held by the Apex Court in **State (N.C.T. Of Delhi) v. Navjot Sandhu@ Afsan Guru**¹ that under Article 227 of Constitution of India the High Court can interfere with the directions of the Subordinate Courts.

In view of the law laid down by the Apex Court, this Court cannot exercise its power under Article 227 of the Constitution of India though the order is wrong, since the power can be exercised only to keep the subordinate Courts and Tribunals within its bounds.

This Court while exercising power under Article 227 can exercise its discretion to interfere in the following circumstances:

- a) When the inferior court assumes jurisdiction erroneously in excess of power.
- b) When refused to exercise jurisdiction.
- c) When found an error of law apparent on the face of record.

¹ (34)2005 (3) ALT (CrI.) 125 (SC)

- d) Violated principles of natural justice.
- e) Arbitrary or capricious exercise of authority or discretion.
- f) Arriving at a finding which is perverse or based on no material.
- g) A patent or flagrant error in procedure.
- h) Order resulting in manifest injustice.
- i) Error both on facts and law or even otherwise.

In the present facts of the case, none of the grounds permits the Court to exercise power under Article 227 of the Constitution of India are found. Therefore, in the absence of any manifest error, it is difficult to refrain the order passed by the Trial Court. In view of my foregoing discussion, I find no reason to set-aside the order passed by the Court below.

In the result, the civil revision petition is dismissed.

Consequently, miscellaneous applications pending if any, shall also stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date: 10.08.2018
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