

THE HONOURABLE SRI JUSTICE D.V.S.S. SOMAYAJULU

CIVIL REVISION PETITION No.1453 of 2011

ORDER:

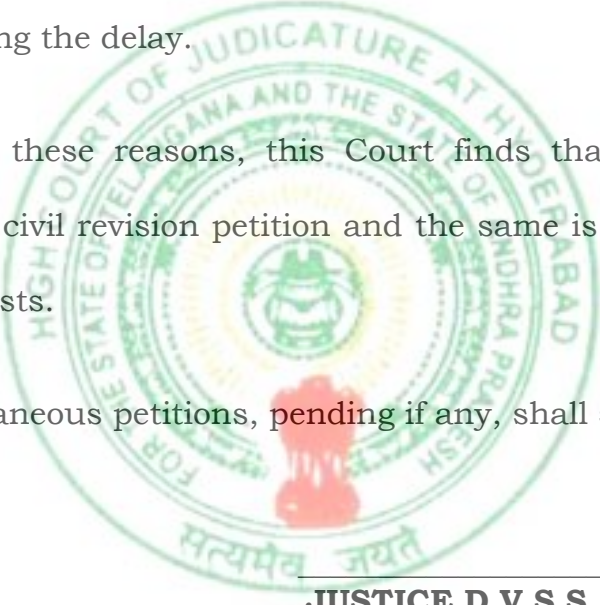
This civil revision petition is filed by the 5th JDR, who is the petitioner in this case. It is his contention that originally the suit in O.S.No.1533 of 2000 was filed by the Decree Holder against the defendant and the same was dismissed for default in the year 2002. Subsequently, in the year 2009, an I.A. No.263 of 2009 was filed for condonation of delay of 2363 days. The I.A., was allowed condoning the delay and the Original Suit was restored by the II Additional Junior Civil Judge, Guntur. He argues that in the restoration application, no personal notice was served on the present petitioner. It is also his contention that the notice was ordered by way of substituted service. Even in the said paper publication, his name was wrongly printed. Therefore, it is his essential grievance that the long delay of 2363 days was condoned without adequate or proper notice to the present petitioner. Therefore, he states that the decree itself is wrongly passed and consequently the execution petition is also incorrect.

In their reply, the learned counsel for the respondents/decreed holder argues that the grievance of the petitioner, if any, should be agitated in the lower Court which had condoned the delay and ordered a paper publication. Even if the allegations made by the petitioner about mentioning the name wrongly in the paper publication is correct, he submits that it is the matter that should be agitated before the original Court and that the executing Court cannot go beyond the decree.

This Court finds sufficient force in the submissions made by the learned counsel for the respondents. It is settled law that the Executing Court cannot go beyond the decree and the manner in which the decree is passed, is a matter to be agitated in the Court that passed the decree and not before the Executing Court, particularly, in these circumstances, as the newspaper in which the name was allegedly wrongly published, is also not filed as a material paper by the petitioner herein. This Court also holds that the petitioner cannot raise any grievance in this CRP filed in April 2011 about an order passed in October, 2009 restoring the suit after condoning the delay.

For all these reasons, this Court finds that there are no merits in the civil revision petition and the same is dismissed. No order as to costs.

Miscellaneous petitions, pending if any, shall stand closed.



JUSTICE D.V.S.S. SOMAYAJULU

Date: 23.04.2018
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