

HONOURABLE SRI JUSTICE N. BALAYOGI  
CIVIL REVISION PETITION No.5000 OF 2011

ORDER:

Heard Counsel for the petitioner/s and the Counsel for respondents and perused the material placed on record.

2. The main Civil Revision Petition is filed aggrieved by the orders passed in I.A.No.1382/2007 in O.S.No.208/2003, dated:10-10-2011.

3. The contention of the petitioner/s is that there is delay in filing the petition for restoration of the Suit and non-appearance of the petitioner/s in the Court on 14.2.2007 was because he could not able to obtain certified copies of Adangals from Mandal Revenue Office and file such copies and as such, he did not file them.

4. A perusal of the record goes to suggest that there is a clear plea of the petitioner/s in the affidavit that he made an application for obtaining Adangal copies from the Revenue Department and when he approached the authorities, he was informed by the staff that adangals/register were taken to the Revenue Divisional Officer, Guntur for computerization and accordingly came on postponing the supply of Adangal copies.

The record further goes to suggest that the petitioner/s is 73 years old and suffering from old age ailments like BP and sugar and it also specifically pleaded that due to old age ailments and ill-health, he could not move and he received Adangal copies on 17.8.2007 and accordingly the delay occurred. The Trial Court dismissed the petition observing that there is no proof that he made any effort prior to 14.2.2007. This finding is perverse because the Revenue authorities came on postponing to supply adangals certified copies saying that

register was sent to the R.D.O., Guntur for computerization, which is beyond the control of the petitioner/s.

5. In the facts and circumstances of the case, I am of the considered view that the petitioner/s has shown sufficient cause to condone the delay in filing an application under Order IX, Rule 9 of the CPC. The order of the Trial Court is perverse and without considering specific plea in the petition-affidavit that the delay has occurred for getting certified copies of Adangals, as the staff informed the petitioner/s that all the adangals/register were taken to the Revenue Divisional Officer, Guntur for computerization and immediately after receiving certified copies, which were received on 17.8.2007, the petitioner/s filed the application under Order IX, Rule 9 of the CPC along with the present Petition. Therefore, I am of the considered view that the delay is neither willful nor wanton but only for the said reasons.

6. In the result, the Civil Revision Petition is allowed while setting aside the orders passed in I.A.No.1382/2007 in O.S.No.208/2003, dated:10-10-2011. The delay is condoned.

The Trial Court is directed to number the petition filed under Order IX, Rule 9 of the CPC for restoration of the Suit and dispose of the same within two months from the date of receipt of a copy of this Order. However, no order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

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JUSTICE N. BALAYOGI

Dated:06-12-2018

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