

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No.6051 OF 2018

ORDER:

This civil revision petition is disposed of at the admission stage as this Court considers it not expedient to order notice to respondents.

2. This CRP is filed by the petitioner/review petitioner aggrieved by the order dated 21.07.2018 in I.A.No.2964 of 2017 in I.A.No.2144 of 2016 in A.T.A.No.05 of 2013 passed by the Principal District Judge, West Godavari at Eluru, dismissing the petition filed under Section 5 of Limitation Act by the petitioner/review petitioner to condone the delay of 590 days in filing an application to set aside the abatement order dated 10.07.2017.

3. Brief facts of the case are that pending the review petition, the 1st respondent died on 02.02.2016 leaving behind the respondents 3 to 5, who succeeded his properties. In bringing the LRs on record, there was a delay and hence, the lower court, as per its order dated 10.07.2017, noted that the review petition was abated against respondent No.1. Thereafter, I.A.No.2964 of 2017 was filed to conde the delay of 590 days in filing application to set aside abatement order dated 10.07.2017 on the ground that the petitioner is old person aged about 84 years and he underwent surgeries during the relevant period and therefore, he could not file the petition within time. The said explanation was not found

favour with the learned Principal District Judge, who on the observation that the petitioner had not filed a single piece of document to show his ill-health and surgeries dismissed the said petition.

Hence, the instant civil revision petition.

4. When the matter came up for admission, learned counsel for petitioner would submit that unfortunately the petitioner could not submit his medical record to his counsel in the lower court due to his old age and other ailments and if an opportunity is accorded, he will submit the medical record for appreciation of the court. On this submission, learned counsel sought for allowing the civil revision petition.

5. As can be seen from the cause title in I.A.No.2964 of 2017, the petitioner is aged 81 years. Hence, admittedly, he is an old man. Considering it, the civil revision petition is allowed, setting aside the order in I.A.No.2964 of 2017. The Court of Principal District Judge, West Godavari at Eluru, is directed to permit the petitioner to produce the medical record of the petitioner and hear both sides and pass an order on merits in I.A.No.2964 of 2017.

As a sequel, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

U.DURGA PRASAD RAO, J

06.12.2018
SS