

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.7009 OF 2017

O R D E R

This civil revision petition arises out of the order dated 09.08.2017 passed by the learned XIV Additional District Judge, Ranga Reddy District at L.B.Nagar, in I.A.No.281 of 2013 in O.S.No.749 of 2008. The said I.A. was filed by the petitioner herein, the plaintiff in the suit, under Section 5 of the Limitation Act, 1963, seeking condonation of the delay of 323 days in filing an application under Order 9 Rule 9 CPC. By the order under revision, the trial Court dismissed the I.A.

Personal service having been permitted, the respondent herein was served by Sri Vedula Srinivas, learned counsel, and the Memo in proof of service dated 04.01.2018 along with a copy of the acknowledgement card bearing out such service, is placed on record. Despite the same, the respondent/defendant did not choose to enter appearance before this Court.

O.S.No.749 of 2008 was filed for specific performance of an agreement of sale relating to the suit schedule property. The said suit was dismissed for default on 17.04.2012. In the affidavit filed in support of the condone delay petition, the petitioner/plaintiff stated that he had no information as to such dismissal as his counsel failed to inform him of the same. Significantly, the respondent/defendant did not even contest the subject I.A. but the trial Court opined that sufficient reason was not furnished by the petitioner/plaintiff to account for the delay. As the delay was less than a year and the respondent/defendant did not even choose to contest the same, the trial Court ought to have been more liberal in considering the same.

All the more so, when the petitioner/plaintiff asserted that his counsel did not inform him of the dismissal of the suit. Valuable property rights of the litigants cannot be bartered away on mere technicalities.

The civil revision petition is accordingly allowed. The delay in filing the petition under Order 9 Rule 9 CPC is condoned. The trial Court shall deal with the said petition on merits and in accordance with law.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

5th JANUARY, 2018

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SANJAY KUMAR, J

