

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.6057 OF 2017

O R D E R :

This revision is filed against the order dated 28.08.2017 passed in IA.No.1033 of 2016 in AS.Sr.No.4393 of 2016 by the IX Additional District Judge, West Godavary at Kovvur, wherein the Court below dismissed the application filed by the petitioner under Section 5 of the Limitation Act, for condoning the delay 1511 days in filing the appeal against the Judgment and Decree dated 29.06.2012 in OS.No.38 of 2010.

Learned counsel for the petitioner submits that because of communication gap between the petitioner and his counsel, petitioner did not come to know about passing of preliminary decree; that only after receiving notices in final decree proceedings petitioner came to know about preliminary decree, as such, there was delay in filing the appeal; and that the Court below without considering the said aspect in proper perspective dismissed the application, though important property rights of the petitioner are involved.

It is to be seen that the grounds mentioned for condoning the enormous delay of 1511 days i.e. more than four years, is that petitioner was not informed by his counsel about passing of preliminary decree in the suit and that after receiving information petitioner was ill, as such he could not file the appeal in time.

The trial Court considered the said aspect by observing that petitioner maintained silence for four years without contacting his counsel about result in the suit. The trial Court also found that even after coming to know about the result in suit petitioner took one month time to obtain certified copies and two months time to file the appeal. The trial Court did not satisfy with the explanation given by the petitioner for condoning the delay and passed elaborate order considering the issue. It is unbelievable that the petitioner kept silent for four years after filing a suit for partition, without communicating with his counsel.

In view of the facts and circumstances, I do not see any infirmity in the order dated 28.08.2017 passed by the Court below in IA.No.1033 of 2016 in AS.Sr.No.4393 of 2016, warranting interference of this Court by exercising power under Article 227 of the Constitution of India.

Accordingly, the CRP is dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the CRP, shall stand closed.

A.RAJASHEKER REDDY, J

28.02.2018

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