

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.6910 OF 2017

ORDER :

This Revision is filed assailing the order dt.29.08.2017 in I.A.No.790 of 2017 in O.S.No.709 of 2016 on the file of Principal Junior Civil Judge, Tirupathi.

2. The petitioner herein is plaintiff in the above suit.
3. He filed the suit against the respondent(s) for cancellation of certain sale deeds and other reliefs.
4. The 1st defendant was initially set *ex parte* on 24.04.2017, and the matter was posted to 05.07.2017 for the plaintiff to lead evidence.
5. On that day, the 1st respondent / 1st defendant filed I.A.No.790 of 2017 to set aside the order setting her *ex parte* on 24.04.2017, stating that she fell ill and could not contact her counsel to give instructions to file written statement. She also filed written statement along with the said I.A.
6. Though this application was opposed by the petitioner, the Court below allowed it on payment of costs of Rs.200/-.
7. Assailing the same, the present Civil Revision Petition is filed.
8. The counsel for petitioner contended that there was no application for condoning the delay in filing the written statement and there was no evidence of ill-health.

9. Admittedly, the 1st respondent had been set *ex parte* on 24.04.2017, and thereafter in the month of May, 2017 the Court was closed for vacation and came to be re-opened only in June, 2017. That apart, along with the I.A.No.790 of 2017, the 1st respondent did file a written statement and explained the reason why she could not have filed written statement earlier.

10. The Court below, in my opinion, was correct in allowing the 1st respondent to file written statement on payment of costs of Rs.200/- to the petitioner since such a course of action was in the interest of justice and the delay in filing written statement was also not inordinate.

11. I do not agree with the contention of the counsel for petitioner that absence of an application for condonation of delay in filing written statement ought to be a ground for rejecting I.A.No.790 of 2017, because the reasons for not filing written statement are clearly set out therein; and the delay cannot be said to be substantial having regard to the fact that the summer vacation intervened in between.

12. I am also of the opinion that the Court below has rightly exercised its discretion in permitting the 1st respondent to file written statement by setting aside the order dt.24.04.2017, setting the 1st respondent *ex parte*.

13. Accordingly, the Civil Revision Petition is dismissed as the stage of admission. No order as to costs.

14. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 19.01.2018

Ndr/*