

HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CIVIL REVISION PETITION No. 7542 of 2017

ORDER:

This civil revision petition is arising out of the order dated 10.08.2017 in I.A.No.1327/2016 in unnumbered Appeal Suit of 2016 (G.R.No.3568, dated 23.06.2016) on the file of Principal District Judge, Srikakulam (for short, 'the first appellate Court').

2. The revision petitioner herein is the 1st defendant in the Original Suit No.297 of 2011 on the file of Principal Junior Civil Judge, Srikakulam. The suit was filed by the plaintiffs/respondents herein, for grant of permanent injunction against the defendants and their agents from interfering with the peaceful possession and enjoyment of plaint schedule property. The suit was decreed by Judgment and Decree dated 29.04.2014. Aggrieved by the same, the 1st defendant sought to file an appeal before the first appellate Court. As there was a delay of 755 days in filing the appeal, she filed a petition in I.A.No.1327 of 2016 under Order 41 Rule 3(A) of CPC to condone the delay. The first appellate Court dismissed the petition by the impugned order

dated 10.08.2017. Therefore, she filed the present civil revision petition to set aside the impugned order dated 10.08.2017 passed by the first appellate Court.

3. Heard the learned counsel for the revision petitioner/1st defendant, and the learned counsel for the respondents.

4. Learned counsel for the revision petitioner submits that the revision petitioner is an illiterate woman, eking her livelihood by working as labourer, and that she has no knowledge of Court proceedings and that her previous advocate has not properly guided her and left her case in the middle and returned the case bundle to her. Placing reliance on the judgment of this Court in **J. Yadagiri Reddy v. J. Hemalatha**¹, the learned counsel submits that the object of the Court should be to decide the rights of the parties but not to punish them for the mistakes they made in the conduct of their case by deciding otherwise than in accordance with their rights.

5. Learned counsel for the petitioner mainly tried to impress that the petitioner is an illiterate woman and a rustic villager and eking out her livelihood as a

¹ 2016 (3) ALT 211

labourer and she has no knowledge of Court proceedings and therefore she could not prosecute her case by engaging another counsel though her previous counsel returned the case bundle to her and, therefore, sought for setting aside the impugned order passed by the first appellate Court dismissing the condone delay petition.

6. Learned counsel for the respondents/plaintiffs opposed the petition on the ground that there is no sufficient and reasonable cause for condoning the delay.

7. On consideration of the facts and circumstances of the case, keeping in view that the revision petitioner is an illiterate woman and a villager and working as a labourer to eke out her livelihood, and her case bundle was returned to her by her previous counsel in the middle of prosecuting her case, and as she might not have known that she has to engage another counsel, and therefore there is delay in filing the appeal within time and hence there is reasonable and sufficient cause for her in not prosecuting the case within the appeal time.

8. Having regard to the facts the case, and in view of the fact that there is some inconvenience caused to the

respondents/plaintiffs, the delay of 755 days in filing the appeal is condoned on payment of costs of Rs.3,000/- payable to the respondents/plaintiffs, within one month from the date of receipt of a copy of this order.

9. The civil revision petition is, accordingly, allowed with the above direction. Miscellaneous petitions, if any pending, shall stand closed.

26th April, 2018

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GUDISEVA SHYAM PRASAD, J



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