

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION Nos.7533 & 7534 of 2017

COMMON ORDER:

Heard.

The present revisions came to be filed by the petitioner/plaintiff assailing the order dated 23.11.2017, passed in I.A.Nos.1111 and 1110 of 2017 in O.S.No.173 of 2012.

The petitioner filed a suit for permanent injunction basing on the sale deed and also claimed possession of the suit schedule property. Pending the said suit, I.A.No.611 of 2016 came to be filed seeking to add the proposed parties, who are wife and children of the defendant in the suit on the ground that I.A.No.610 of 2016 for amendment by incorporating the relief of specific performance of agreement of sale dated 30.04.1987, executed by the father of the first respondent. In I.A.No.611 of 2016, notice was sent to the second respondent therein, which was returned unserved. Thereafter, the matter was adjourned for taking steps to get the notice served through substitute service to the second respondent, which was subsequently allowed on 06.07.2017 ordering notice to the second respondent by way of paper publication in Praja Sakthi newspaper and also directing the petitioner to file proof of the same by 01.08.2017. On 01.08.2017, there was no representation on behalf of the petitioner and as such the petition against the second respondent therein was dismissed. Thereafter, I.A.No.611 of 2016 underwent several adjournment and after several adjournments in the I.A., the impugned applications were filed which were dismissed on 23.11.2017, on the ground

that there are no valid grounds for condoning the delay. Hence, the present revisions came to be filed.

The only ground urged by the petitioner is that there was marriage of the daughter of his counsel on 13.08.2017 and as such he could not take out publication by 01.08.2017. The Court below dismissed the I.As. on the ground that the petitioner could have atleast filed the application immediately after the marriage, without waiting till 30.10.2017. Aggrieved by the same, the present revisions came to be filed. Notices were served on the first respondent, so also on respondent Nos.3 and 4. In the trial Court, the notice served on the second respondent was returned unserved and thereafter the Court ordered paper publication, but as the counsel for the petitioner was busy with his daughter's marriage, on 01.08.2017, he could not file publication ordered against the second respondent in I.A.No.611 of 2016 and hence the said petition was dismissed against second respondent for not taking publication. Learned counsel appearing for respondent Nos.1 to 3 opposed the same stating that inspite of giving number of opportunities, the petitioner could not give proper explanation for not taking publication and as such the order under challenge warrants no interference.

As seen from the record, there is a delay of 25 days in filing the application to set aside the order dated 01.08.2017 passed in I.A.No.611 of 2016. The reason for delay was that there was a marriage of the daughter of the counsel and as such he could not take steps immediately. The same is not seriously disputed by the counsel for respondent Nos.1, 3 and 4.

Having regard to the above, CRPs. are allowed by condoning the delay of 25 days in filing the application to set aside the ex-parte order, directing the petitioner to comply with the terms of the order dated 06.07.2017, within a period of two weeks from the date of receipt of a copy of the order and report the same before the concerned trial Court.

As a sequel thereto, Miscellaneous Petitions pending if any in these Civil Revision Petitions, shall stand closed. There shall be no order as to costs.

19.01.2018
vnb

C. PRAVEEN KUMAR, J

