

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.643 of 2019

ORDER:

Heard Sri K.Raghuveer Reddy, learned counsel appearing for the petitioners and Sri D.V.Chalapathi Rao, learned counsel appearing for the respondents.

Petitioners filed this Revision challenging the order dt.21.01.2019 passed in I.A. No.250 of 2017 in O.S. No.47 of 2012 by the Senior Civil Judge, Jangaon refusing to condone the delay of 1206 days in filing the petition to set aside *ex parte* decree passed in the said suit on 08.10.2014.

In the affidavit filed in support of the application, a specific plea was taken by the petitioners in the Revision, who are the defendants 10, 11 and 16, that the suit summons were not served personally as they were staying in Hyderabad for eking out their livelihood and recently they came to their village and their family members informed about the filing of the suit. They therefore contended that they were unable to attend the Court and the said delay is to be excused.

In the impugned order, the Court below recorded that the report of the service of summons indicates that wife of D-10 received summons on 23.04.2012, elder brother of 3rd petitioner, who is D-16, received summons and as regards the 2nd petitioner, the summons were affixed on the door.

As per the Order V Rule 17 affixing of summons on 2nd petitioner's door is sufficient service and also under Order V Rule 15 service of summons to elder member of the family is sufficient and therefore both the petitioners 1 to 3 cannot validly take a defense that they did not personally receive summons.

It is also difficult to believe that between 2012 and 2017 petitioners never went to the village where the wife of the 1st petitioner and elder brother of the 3rd petitioner were residing.

Even after having notice of filing of the suit, petitioners did not chose to evince any interest in contesting the same and so they cannot be permitted to approach the Court after 1206 days of passing of the decree and seek to have it set aside.

Therefore, the Court below did not commit any error of jurisdiction in refusing to condone the inordinate delay for filing a petition seeking to set aside *ex parte* decree.

Accordingly, this Revision fails and is dismissed. There shall be no order as to costs.

As a sequel, miscellaneous applications, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 04.06.2019
LSK