

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.323 of 2010

ORDER:

This writ petition is filed assailing the order passed by the first respondent, *vide* Case No.A4/LTR/44/2008, dated 20.12.2008, dismissing the appeal filed by the petitioner on the ground that there was no sufficient cause for condoning the delay in filing of the appeal filed against the judgment, dated 15.05.2007, passed by the second respondent, whereby the second respondent ordered ejectment of the petitioner from the land in Sy.No.25 of an extent of Acs.7-24 guntas situated at Ruyyadi Village, Talamadugu Mandal, Adilabad District.

2. The case of the petitioner is that the petitioner claims to be in possession and enjoyment of the land in Sy.No.25 of an extent of Acs.7-24 guntas situated at Ruyyadi Village, Talamadugu Mandal, Adilabad District, since the year 1969, on the basis of a simple sale deed executed by the fifth respondent in this writ petition. However, without taking into account of the said fact, the second respondent passed the judgment, dated 15.05.2007 in Case No.TW A2/143/97 ordering ejectment of the petitioner from the land in question. The petitioner contends that he is an illiterate and was not aware of the said judgment and the petitioner came to know of such proceedings only for the first time on 27.03.2008, as no copy of the said judgment was served on him by the office of the second respondent. On the very next day, i.e. on 28.03.2008, the petitioner made an application for issuance of a certified copy of the said judgment and that the same was obtained on 28.04.2008. Thereafter, the petitioner filed an appeal before the first respondent questioning the judgment, dated 15.05.2007, passed by the second respondent, with a delay of 85 days

from the date of knowledge of the judgment, on the ground that the petitioner fell sick from 20.06.2008 to 17.09.2008. However, without considering the above facts, the first respondent dismissed the appeal observing that the appeal was filed with a delay of one year two months and three days, which the first respondent ought to have condoned.

3. Heard the learned counsel for the petitioner and the learned Government Pleader for Social Welfare.

4. Learned Government Pleader fairly submits that if the Court finds that the delay ought to have been condoned, the matter may be remitted to the first respondent for taking up the appeal on record and disposing of the same.

5. Having regard to the above submission and also in view of the fact that the judgment of the second respondent has not been served on the petitioner and he came to know of the same only on 28.03.2008, which was not rebutted by the respondents, this Court is of the view that the delay in filing the appeal requires to be condoned.

6. Accordingly, the delay in filing of the appeal is condoned and the first respondent is hereby directed to entertain the appeal filed by the petitioner against the judgment, dated 15.05.2007, passed by the second respondent, and consider and dispose of the same after affording an opportunity of hearing to the petitioner.

7. Having regard to the fact that since the impugned order pertains to the rejection of the appeal on the ground of delay and as this Court has now condoned the delay in filing the appeal, which relates to the year 2009, this Court is of the view that the first respondent shall endeavour to

dispose of the appeal filed by the petitioner, as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order. Till the disposal of the appeal by the first respondent, the parties are directed to maintain *status quo* obtaining as on today as regards the land in question.

8. With the above directions, the writ petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

Date:10.12.2019

PGS

JUSTICE T.VINOD KUMAR

