

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.2403 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners/defendants, challenging the order, dated 21.08.2019, passed in I.A.No.919 of 2018 in an unregistered Appeal Suit, by the Principal District Judge at Mahabubnagar, whereby, the petition filed by the revision petitioners/defendants under Order XLI Rule 3 of C.P.C. read with Section 5 of the Limitation Act, 1963, to condone the delay of 6770 days in filing the appeal, was dismissed.

2. Heard the learned counsel for the revision petitioners/defendants and perused the record.

3. The learned counsel for the revision petitioners/defendants would contend that the order under challenge is erroneous. There are genuine circumstances which led to filing of the subject interlocutory application by the revision petitioners/defendants. The Court below had not considered the medical record filed in support of the case of the revision petitioners/defendants and erroneously dismissed the subject interlocutory application and ultimately prayed to set aside the order under challenge and allow the Civil Revision Petition as prayed for.

4. It is evident from the record that the subject Original Suit in O.S.No.64 of 1982 was filed by the respondent/plaintiff before the Senior Civil Judge at Mahabubnagar, for specific performance of agreement of sale. The said suit was decreed by judgment and decree, dated 29.12.1999. Then, the revision petitioners/defendants

filed an appeal along with the subject interlocutory application to condone the delay of 6770 days in filing the appeal. The petitioner No.2 herein was examined as P.W.1 in the subject interlocutory application. He had not properly explained the huge delay of 6770 days in preferring the appeal before the Court below. P.W.1 contended that he was admitted in Care Hospital, Hyderabad, for undergoing heart surgery and hence delay occurred. There is no proper medical record to substantiate the same. In the cross-examination, P.W.1 stated that he went to Saudi Arabia for his livelihood and he had no personal knowledge of the proceedings in O.S.No.64 of 1982. In fact, as on the date of decreeing of the suit, the father of P.W.1 was alive and when the respondent/plaintiff filed an E.P. for execution of the decree, P.W.1 had engaged an advocate to contest the E.P., which is evident from Exs.B.3 and B.4. The Court below, having examined the matter in detail, ultimately negated the relief sought by the revision petitioners/defendants, assigning reasons. The delay is abnormal and it is not properly explained. The Court below is justified in passing the impugned order. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

5. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

21st October, 2019
Bvv