

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2390 OF 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/defendant, aggrieved by the docket order, dated 31.07.2019, passed in I.A.No.1442 of 2013 in O.S.No.617 of 2007 by the I Additional Senior Civil Judge, Ranga Reddy District at L.B. Nagar, Hyderabad, whereby, the petition filed by the respondent/plaintiff under Section 5 of the Limitation Act, 1963, requesting to condone the delay of 1620 days in filing the petition for setting aside the order, dated 27.04.2009, dismissing the Original Suit for default, was allowed, subject to payment of costs of Rs.1,700/- to the counsel for the respondent therein.

2. Heard learned counsel for the revision petitioner/defendant and perused the record.

3. Learned counsel for the revision petitioner/defendant would submit that the Court below, without there being justifiable and sufficient cause, allowed the subject interlocutory application. The delay had not been properly explained by the respondent/plaintiff. Only a medical certificate was filed in support of the subject interlocutory application, which reveals that the respondent/plaintiff was sick for one year. The Court below held that if relevant technicalities are given utmost importance, it may prejudice the rights of either parties to the suit and allowed the subject interlocutory application, subject to payment of costs of Rs.1,700/- to the counsel for respondent therein, which is erroneous, and

ultimately prayed to set aside the docket order under challenge and allow the Civil Revision Petition as prayed for.

4. On the other hand, learned counsel for the respondent/plaintiff would contend that the respondent/plaintiff could not pursue the suit due to ill-health. Immediately after coming to know about the dismissal of the subject suit for cancellation of sale deed bearing document No.18280 of 2006 for default, he has filed the subject interlocutory application. Sufficient reasons have been explained for the delay caused. There is no infirmity or perversity in the impugned order. The Court below is justified in allowing the subject interlocutory application by condoning the delay of 1620 days and ultimately prayed to dismiss the Civil Revision Petition.

5. Admittedly, the subject Interlocutory Application No.1442 of 2013 was filed by the respondent/plaintiff to condone the delay of 1620 days in filing the petition for setting aside the order, dated 27.04.2009, dismissing the Original Suit for default and to restore the suit, on the ground that the respondent/plaintiff was an old aged person suffering from ill-health and jaundice. So he could not contact his counsel for more than one year. On 20.08.2013, he came to know about the dismissal of the suit for default, vide order, dated 27.04.2009. Immediately, he filed the subject interlocutory application to condone the delay in filing the petition for setting aside the order of dismissal of the suit for default and to restore the suit. The Original Suit was filed for cancellation of sale deed bearing document No.18280 of 2006. Certain allegations are made in the plaint with regard to bringing the said sale deed into existence.

6. As per the record, as on the date of filing of the suit in the year 2007, the respondent/plaintiff was 60 years old. It establishes that he is an aged person. There is nothing to disbelieve that he was not suffering from ill-health. In the given circumstances, substantial justice is required to be rendered to the parties. The Court below need not be too technical in coming to a conclusion as to whether there is a justifiable cause to condone the delay of 1620 days. The view taken by the Court below is supported by the material placed on record. There is no perversity or illegality in the impugned order. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

7. Accordingly, the Civil Revision Petition is dismissed. No costs.
Miscellaneous Petitions, if any, pending shall stand closed.

Date: 12.11.2019
ssp

Dr. SHAMEEM AKTHER, J