

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2677 OF 2019

ORDER:

This revision, under Section 115 of the Code of Civil Procedure, 1908, is filed by the petitioner/defendant aggrieved by the order dated 10.04.2019 passed in I.A.No.182 of 2018 in O.S.No.561 of 2013 by the XIII Additional District and Sessions Judge, L.B. Nagar, Ranga Reddy District, wherein the application filed by the revision petitioner/defendant to condone the delay of 1538 days in filing an application to set aside the *ex parte* decree, was dismissed.

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

3. Learned counsel for the revision petitioner would contend that summons was not served on the revision petitioner. Therefore, he was not aware of the proceedings in the said suit. Having come to know about the E.P., the revision petitioner immediately filed an application to set aside the *ex parte* decree along with the subject application to condone the delay of 1538 days. Though there is an ample record to show that summon was not served and the delay has been satisfactorily explained, the Court below erroneously passed the impugned order and ultimately prayed to set aside the same.

4. It is evident from the record that there is a delay of 1538 days in filing the said application and hence the subject application was filed to condone the said delay. The Court below had dealt with the subject application elaborately and passed a detailed order. The Court below

recorded finding on a perusal of the docket order dated 24.09.2013, that “registered post was served, defendant called absent, service is satisfactory and hence the defendant was set *ex parte*”. It is brought to the notice of this Court that at page 41 of the material paper, the postal endorsement, there is no specific mention that summons was not served. When the Court below recorded finding after examining the record with regard to the service of summons, the application filed to condone the delay is liable to be dismissed. Furthermore, there is a huge delay of 1538 days and no satisfactory reasons had been explained to condone the said delay. Therefore, the Court below justified in passing the impugned order. The revision petition is devoid of merit and is liable to be dismissed.

5. In the result, the Civil Revision Petition is dismissed at the stage of admission.

The Miscellaneous Petitions, if any, pending shall stand closed.
No costs.

Date: 15.11.2019
ssp

Dr. SHAMEEM AKTHER, J