

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No. 3094 OF 2019

ORDER:

This Civil Revision Petition is filed questioning the order dated 10.05.2019 passed by the learned Junior Civil Judge, Korutla, dismissing I.A.No.120 of 2018 in O.S.No.6 of 2014 filed by the petitioner under Section 5 of the Limitation Act to condone the delay of 415 days in filing the petition to restore the suit.

It is not necessary for this Court to delve into the details with respect to the facts of the case.

The petitioner claims to be in possession of the suit schedule properties having purchased the same through registered sale deeds. When the respondents-defendants interfered with her possession, she filed the afore-stated suit and a written statement was filed on 24.08.2011 specifically denying the assertions of the petitioner. Thereafter, it was transferred to the learned Junior Civil Judge, Korutla, and renumbered as O.S.No.6 of 2014. However, the said suit was dismissed for default on 13.07.2017. Thereupon, she filed the aforesaid I.A. seeking condonation of delay in filing application for restoration of the suit. Learned Judge having dissatisfied with the reason stated by the petitioner that she was unwell, dismissed the I.A. by the order under revision.

Learned counsel for the petitioner submits that on account of illiteracy of the petitioner and in view of inadequate knowledge on the part of the counsel appearing in the suit, there was no proper pleading, however, that by itself would not cause prejudice to the rights of the parties. He further submits that the respondents did

not choose to file counter-affidavit opposing the I.A., and thereby, prays for allowing the C.R.P. putting the petitioner on terms.

Learned counsel for the respondents vehemently submits that the petitioner had not furnished details nor material with respect to her assertion that she was suffering from ill-health, thereby, he prays for dismissal of the Revision.

It may be noted that the petitioner claims to have acquired the suit schedule property by paying valuable consideration. The respondents by themselves are not claiming any right over the same as it is part of Grama Kantam. However, entitlement of the petitioner is required to be decided after full-fledged trial.

This Court can take judicial notice of the fact that in-adequate knowledge of the Advocates in preparation of the affidavits shall not prejudice the rights of the parties. For that reason, this Court is inclined to allow the C.R.P. by condoning the delay, putting the petitioner on terms.

Hence, the Civil Revision Petition is allowed and the order under revision is set aside. Consequently, I.A.No.120 of 2018 is allowed, subject to the petitioner-plaintiff paying costs of Rs.30,000/- (Rupees Thirty Thousand only) to the credit of Junior Civil Judge's Court, Korutla, within a period of two weeks from the date of receipt of a copy of this order, in default, the C.R.P. stands dismissed.

Consequently, miscellaneous applications, if any shall stand closed.

CHALLA KODANDA RAM, J

Dt:28.02.2020

Note: Issue cc in three days.

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