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C.M.P.No.15108 of 2021
in
A.S.Sr.No.29841 of 2015

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R.N.MANJULA, J.

This petition has been preferred to condone the delay of 941 days in filing the restoration petition in M.P.No.1 of 2015 in A.S.Sr.No.29841 of 2015.

2. The petition in M.P.No.1 of 2015 was filed under Section 5 of Limitation Act, 1963 to condone the delay of 521 days in filing the above appeal against the judgment and decree of the trial Court dated 16.7.2013 in O.S.No.10854 of 2020.

3.The learned counsel for the petitioner submitted that the petitioner who is the appellant/defendant in the suit is a old woman and she is not aware of the legal proceedings; her daughter has contested the proceedings on her behalf; her daughter also died on 05.03.2021; hence, the petitioner cannot prosecute the case diligently.



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4. The learned counsel for the respondent submitted that the suit was decreed as early as on 16.07.2013 and then onwards the proceedings were protracted for some reason or other. Despite the execution proceedings have been initiated and the sale deed got executed through Court, the delivery cannot be taken because the judgment debtor alleged certain appeal proceedings pending before the Court.

5. It is made clear that there is no appeal pending as of now. The petitioner had filed a petition in M.P.No.1 of 2015 to condone the delay in filing the appeal and the said petition was also filed with the delay of 591 days. Even that petition was also not prosecuted diligently and the same was dismissed for default on 20.03.2017. After nearly three years the present petition has been filed to condone the delay of 941 days to restore the miscellaneous petition in M.P.No.1 of 2015. The conduct of the petitioner would show that at each and every time she caused delay in filing the proceedings. It seems that whenever the executing Court has ordered to deliver the property, the revision petitioner manages to file some petitions only in order to drag the proceedings. Even though, the daughter of the



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revision petitioner was said to have died in the year 2021, the fact remains that the decree was passed as early as in the year 2013 itself. If this kind of petitions are allowed that will only result in a situation where there can be no finality for the litigations. Since the reasons stated by the petitioner is far from satisfactory and much water has flown under the bridge, I do not prefer to allow this petition. Hence, this miscellaneous petition is dismissed.

02.08.2022

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