

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

CIVIL REVISION PETITION No.3635 of 2014

ORDER:

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This Civil Revision Petition is filed against the order dated 14.07.2014 passed in I.A.No.507 of 2007 in O.S.No.9 of 1999 on the file of Senior Civil Judge, Nagarkurnool, Mahaboobnagar District wherein the Court below has dismissed the said application filed by the petitioners/defendants filed under Section 5 of the Limitation Act read with Order IX Rule 13 of CPC.

Learned counsel for the petitioners/defendants submits that the decree is passed against the dead persons and the respondents approached the petitioners herein and proposed for compromise and made them believe that they would not proceed with the main suit. Contrary to their promise the respondents obtained decree in their favour. With regard to the same, she relied on judgment reported in ***N.Balakrishnan versus M.Krishnamurthy***^[1] and contends that "sufficient cause" should be construed liberally.

The Court below has dismissed the condone delay petition stating that the said delay is to be reckoned from the date of passing of preliminary decree not from the date of passing of final decree and the preliminary decree was passed on 13.09.2002. As such, there is a delay of more than 5 years from the date of preliminary decree to the date of filing of this petition.

The affidavit filed by the petitioner in support of the condone delay petition is vague and the delay is not properly explained. It is also stated that the petitioners remained exparte not only in the preliminary decree proceedings but also in final decree proceedings.

A perusal of the affidavit filed in support of the condone delay petition in the trial Court does not show that the petitioners have explained the cause for delay and the same is vague. As per the

judgment relied on by the learned counsel for the petitioner in (1998) 7 SCC 123, sufficient cause should be construed liberally but when no proper and reasonable cause is shown by the petitioners for the enormous delay of 5 years, the delay cannot be condoned.

In view of the above, I do not see any infirmity in the order passed by the Court below requiring interference of this Court under Article 227 of Constitution of India.

Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

A. RAJASHEKER REDDY, J

Date: 31-10-2014
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[\[1\]](#) (1998) 7 SCC 123