

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

C.R.P.Nos.1883 and 1890 of 2019

COMMON ORDER:

Since the facts of the case, issues involved and the parties in these two cases are identical, these two Civil Revision Petitions are being disposed of by this common order.

2. C.R.P.No.1883 of 2019 is filed by the petitioner/defendant, under Article 227 of the Constitution of India, challenging the order, dated 16.07.2019, passed in I.A.No.907 of 2019 in I.A.No.405 of 2017 in O.S.No.580 of 2016, by the XV Additional District Judge-cum-XV Metropolitan Sessions Judge-cum-II Additional Family Judge, Kukatpally, Ranga Reddy District, whereby, the petition filed by the revision petitioner/defendant under Order IX Rule 7 read with Sections 148 and 151 of CPC to set aside the order, dated 25.10.2017 passed in I.A.No.405 of 2017 and to restore the Original Suit to file, was dismissed.

3. C.R.P.No.1890 of 2019 is filed by the petitioner/defendant, under Article 227 of the Constitution of India, challenging the order, dated 16.07.2019, passed in I.A.No.876 of 2019 in I.A.No.405 of 2017 in O.S.No.580 of 2016, by the XV Additional District Judge-cum-XV Metropolitan Sessions Judge-cum-II Additional Family Judge, Kukatpally, Ranga Reddy District, whereby, the petition filed by the revision petitioner/defendant, under Section 5 of the Limitation Act, 1963, requesting to condone delay of 543 days in filing the petition for setting aside the order, dated 25.10.2017, passed in I.A.No.405 of 2017 and to restore the Original Suit to file, was dismissed.

4. Heard the learned counsel for the revision petitioner/defendant, the learned counsel for the respondent/plaintiff in both these revisions and perused the record.

5. The learned counsel for the revision petitioner/defendant would contend that since the revision petitioner/defendant was in jail, he could not pay the costs of Rs.1,000/- imposed by the Court below in I.A.No.405 of 2017, which was filed to set aside the *ex parte* decree, dated 07.03.2017. However, he is apprehending arrest in 10 more criminal cases filed against him, which is also a reason for non payment of costs. Though there are other circumstances to consider, the Court below did not allow the subject interlocutory applications as prayed for. The impugned orders are erroneous and ultimately prayed to allow both the Civil Revision Petitions as prayed for.

6. On the other hand, the learned counsel for the respondent/plaintiff would contend that though the petitioner/defendant stated that he was detained in jail in a criminal case and apprehending arrest in 10 more criminal cases, he did not furnish the details of said cases. No other genuine reason is shown by the petitioner/defendant to allow the subject interlocutory applications. Therefore, the Court below is justified in dismissing the subject Interlocutory Applications and ultimately prayed to dismiss both the Civil Revision Petitions.

7. As seen from the material placed on record, the Court below, by order, dated 25.10.2017, dismissed the I.A.No.405 of 2017 filed to set aside the *ex parte* decree, dated 07.03.2017, since the

petitioner/defendant failed to pay the costs of Rs.1,000/- imposed on 11.10.2017 in the said interlocutory application, to be paid by 25.10.2017. Thereafter, the revision petitioner/defendant filed the subject interlocutory applications on 22.04.2019 stating that since he was detained in jail, he could not pay the costs. Except stating so, the revision petitioner/defendant did not furnish any details of his detention, i.e., the prison where he has been detained, duration of detention and also the details of criminal cases pending against him, in which he is apprehending arrest. In the course of submissions, it is brought to the notice of the Court that in spite of affording several opportunities, the revision petitioner/defendant did not file written statement in the Original Suit, but remained *ex parte* and thus, *ex parte* decree was passed by the Court below on 07.03.2017. Admittedly, the Original Suit is filed in the year 2016 for specific performance of agreement of sale, dated 15.07.2014. In spite of affording ample opportunity to the revision petitioner/defendant, he did not come forward to put forth his defence. Without there being a justifiable cause and acceptable explanation by the revision petitioner/defendant, the abnormal delay of 543 days cannot be condoned. The Court below, having examined the contentions of both the parties, rightly dismissed the subject interlocutory applications. In the given circumstances, there is nothing to take a different view. There is no perversity or illegality in the orders under challenge. Therefore, both the Civil Revision Petitions are devoid of merits and are liable to be dismissed.

8. Accordingly, both these Civil Revision Petitions are dismissed.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in these Civil Revision Petitions, shall stand closed.

Dr. SHAMEEM AKTHER, J

29th November, 2019
Vvr

