

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

CIVIL REVISION PETITION No.3896 OF 2014

ORDER:

This Civil Revision Petition is filed against the order, dated 14.08.2014, passed in I.A.No.402 of 2014 in O.S.No.46 of 2011 on the file of the Principal Junior Civil Judge, Avanigadda.

The petitioner herein has filed the aforesaid suit, for injunction simplicitor, against the respondents herein, and the same was dismissed for default on 20.12.2012. Thereafter, the petitioner filed an application to restore the suit, which was dismissed for default on 20.12.2012. Since there was a delay of 82 days in filing such application, he filed the present I.A.No.402 of 2014 with a prayer to condone the delay. It was pleaded by the petitioner that against the dismissal of an interlocutory application filed along with the suit, he preferred an appeal before the appellate Court and that his counsel has not informed him about the dismissal of the suit. By the impugned order, dated 14.08.2014, the Court below dismissed the present I.A on the ground that sufficient reasons are not given by the petitioner to condone the delay. Aggrieved by the same, the present revision is filed.

Heard learned counsel for the petitioner and learned counsel for the respondents.

From a perusal of the affidavit filed in support of the present I.A., it is evident that the petitioner was not having knowledge about the dismissal of the suit for default, as his counsel has failed to inform him about the same, and that after coming to know about the same, he filed the present application. In view of this explanation offered by the petitioner, it cannot be said that sufficient reasons are not given by the petitioner to condone the delay. It appears, the Court below has dismissed the present I.A. merely basing on the previous conduct of the petitioner.

Hence, the Civil Revision Petition is allowed and the order under revision is set-aside. Consequently, I.A.No.402 of 2014 in O.S.No.46 of 2011 stands allowed. There shall be no order as to costs.

The miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

R.SUBHASH REDDY, J

20.02.2015

v v