

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.3948 of 2013

ORDER :

This Revision is filed under Article 115 of the Civil Procedure Code, 1908 challenging the order dt.18.04.2013 in I.A.No.2418 of 2012 in A.S.S.R.No.10335 of 2012 on the file of the Chief Judge, City Civil Court, Hyderabad.

2. The petitioners herein were defendants in O.S.No.2273 of 2005 filed against them by respondent and another on the file of VIII Additional Senior Civil Judge (F.T.C.), City Civil Court, Hyderabad.

3. The petitioners' father Sri P. Adavaiah was also a party in the suit.

4. On 21.09.2010, the said suit was decreed.

5. Challenging the same, A.S.S.R.No.10335 of 2012 was filed by petitioners before the Chief Judge, City Civil Court, Hyderabad. They also filed I.A.No.2418 of 2012 under Section 5 of the Limitation Act, 1963 to condone the delay of (606) days in filing the appeal.

6. By judgment dt.18.04.2013, the lower appellate Court dismissed the said I.A.No.2418 of 2012. It held that although length of delay is not the criterion and existence

of sufficient cause is a ground for condonation of delay, the affidavit filed by petitioners is vague and does not comprise the necessary details for explaining the delay; and that valuable rights had accrued to respondent, and they cannot be allowed to be defeated.

7. Challenging the same, the present Revision is filed.

8. The counsel for petitioners contended that the Court below ought to have condoned the delay since certain unfortunate events had occurred in the family of petitioners including the death of their father Sri P. Adavaiah and another family member; that this caused a depressed state of mind to petitioners; and therefore, they could not take steps to file the appeal challenging the judgment of the trial court within the time permitted by law.

9. In the affidavit filed in support of the application for condonation of delay a vague plea has been taken by petitioners that on account of personal and family problems, apart from financial problems, health problems of their family members, the appeal was not filed within time.

10. Admittedly, the petitioners are four in number and are employed persons. It is difficult to accept their plea that their sorrow, after death of their father, was such that they were unable to contact an Advocate to file the

appeal. Even if there are some problems facing the family nothing prevented petitioners from delegating the matter of pursuing the appeal to one of the members of the family to file the appeal in time. Therefore, I am of the opinion that the Court below had rightly refused to condone the delay of (606) days in filing the appeal. I do not find any merit in the Revision and it is accordingly dismissed. No order as to costs.

11. Miscellaneous applications, pending if any in this Revision, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 30-06-2015

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