

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.1466 OF 2015

ORDER:

Assailing the order dated 23-01-2015 passed in I.A.No.834 of 2014 in unregistered A.S (A.S.No.3 of 2015) on the file of II Additional District Judge, Karimnagar at Jagtial, wherein and whereunder, the application to condone the delay of (349) days in filing the appeal was allowed, the present Revision is filed under Section 115 C.P.C.

The respondent/plaintiff filed O.S.No.117 of 2011 seeking perpetual injunction which was decreed on 08-08-2013. Aggrieved by the said order, the defendant preferred an appeal with a delay of (349) days. The main ground taken for condoning the delay was ill-health of the appellant therein. Medical certificates are also filed in support of the same. However, the learned Judge while holding that day to day delay was not explained, condoned the delay and directed the Registry to number the appeal on payment of costs of Rs.500/- to the plaintiff for the inconvenience caused. Challenging the said order, the present Revision is filed.

Learned counsel for the petitioner mainly submits that the material on record does not explain day to day delay and that certificates, which are filed along with the petition are not reposing confidence to condone the delay. He submits that the learned Appellate Judge while holding that day to day delay was not explained, erred in condoning the delay.

Learned counsel for the respondent/defendant submits that the petitioner and the respondent are brothers and that there is a

decree of injunction in favour of petitioner/plaintiff. He submits that subsequently, the appeal was numbered as A.S.No.3 of 2015 and the dates are being given for hearing of the Appeal.

While dealing with Section 5 of Limitation Act, the Apex Court in **S.Ganeshraju (dead) through Lrs., and another v.Narasamma (Dead) through LRs. And others**^[1] held as under:

“The expression “sufficient cause” as appearing in Section 5 of the Limitation Act, 1963, has to be given a liberal construction so as to advance substantial justice. Unless the respondents are able to show malafides in not approaching the Court within the period of limitation, generally as a normal rule, delay should be condoned. The trend of the courts while dealing with the matter with regard to condonation of delay has tilted more towards condoning delay and directing the parties to contest the matter on merits, meaning thereby that such technicalities have been given a go-by.

The rules of limitation are not meant to destroy or foreclose the right of parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly”.

A reading of the judgment would clearly indicate that it is always fair and appropriate that the matters should be heard on merits rather than shutting the doors of the justice at the threshold. In fact, the Apex Court held that refusal to condone the delay would result in foreclosing the suitor from putting forth his cause. It is categorically held that the rules of limitation are not meant to destroy or foreclose the rights of the parties. It would be appropriate to direct the parties to contest the matter on merits giving go-bye on technicalities and if the delay is not condoned, substantial rights of the parties would be affected. In view of the above, it cannot be said that the order by the appellate Court is

blatantly illegal or erroneous warrants interference by this Court.

Accordingly, the Civil Revision Petition is dismissed. Consequently, miscellaneous petitions, if any, pending in this Revision shall stand closed.

C.PRAVEEN KUMAR,J

04-09-2015

Nvl

[\[1\]](#) (2013) 11 Supreme Court, 341