

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA
RAO**

CIVIL REVISION PETITION No.678 of 2015

ORDER:

This Civil Revision Petition is filed challenging the order dt.23-12-2014 in I.A.No.1058 of 2014 in O.S.No.351 of 2007 of the II Additional Senior Civil Judge, Warangal.

2. The petitioner herein is 2nd respondent in the above suit. The said suit was filed for declaration of title and recovery of possession.

3. In the year 2008, the 1st respondent/plaintiff filed I.A.No.271 of 2008 to implead two parties as defendant Nos.6 and 7. That application was allowed on 07-04-2011. But after the application was allowed, consequential amendments in the plaint were not carried within the time of 14 days fixed under Order VI Rule 18 C.P.C.

4. The 1st respondent then filed I.A.No.1058 of 2014 on 25-11-2014 3 years and 7 months after I.A.No.271 of 2008 was allowed stating that on account of oversight, he could not file fair copy of plaint in time and the said mistake being unintentional, time be granted for

amendment of plaint and for filing fair copy of plaint.

5. This application was opposed by other side pointing out that the case is at the stage of arguments, that 1st respondent had already been put on notice of the fact of non-filing of fair copy of plaint after the amendment on 25-02-2013 itself when he was cross-examined, but he had done nothing to rectify it.

6. By order dt.23-12-2014, the Court below allowed the said application on payment of costs of Rs.200/- on the ground that it is just and necessary as per law to allow the 1st respondent to amend the plaint by filing fair copy of the plaint.

7. Challenging the same, this Revision is filed.

8. Learned counsel for petitioner contended that under Order VI Rule 18 C.P.C., if the party, who had an order to leave for amending the plaint, did not amend the same within the period of 14 days from the date of order, he cannot be permitted to amend after expiry of those 14 days unless time is extended by the Court. He contended that 1st respondent had been totally casual and negligent and for 3 years and 7 months after I.A.No.271 of 2008 was allowed, he did nothing in spite of the fact that it was also pointed out to him in his cross-examination on 25-02-2013. Therefore he prayed that the Court below ought not

to have extended time for filing fair copy of plaint. He also relied on Section 148 C.P.C. stating that time for doing a particular thing fixed in an order of the Court cannot be extended beyond 30 days.

9. The learned counsel for 1st respondent on the other hand contended that on account of negligence of counsel in the Court below probably the delay occurred and the party cannot be penalized for the same. He did not refute the contentions of learned counsel for petitioner that in the cross-examination of 1st respondent on 25-02-2013, the non-filing of fair copy of plaint was specifically put to him.

10. The time limits fixed in the Code of Civil Procedure as amended by the Code of Civil Procedure (Amendment) Act, 2002 (22 of 2002) cannot be totally ignored altogether even if they are construed as not mandatory. This is a classic case where, having been obtained an order from the Court below for amendment of plaint, fair copy of plaint is not filed for a period of 3 years and 7 months. By no stretch of imagination, can this sort of delay be condoned by invoking Section 148 C.P.C. In my considered opinion, it is not open to

1st respondent to blame his counsel for his own negligence and he has to suffer the consequences of the same.

11. Therefore, the Civil Revision Petition is allowed and the order dt.23-12-2014 in I.A.No.1058 of 2014 in O.S.No.351 of 2007 of the

II Additional Senior Civil Judge at Warangal is set aside and the said I.A. is allowed. No costs.

12. As a sequel, miscellaneous petitions pending if any, shall stand disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 28-08-2015

Vsv