

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

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CIVIL REVISION PETITION No.4611 OF 2015

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ORDER:

This revision petition, under Article 227 of the Constitution of India, is filed by the plaintiffs in O.S.No.356 of 2011 on the file of XI Junior Civil Judge, City Civil Court, Secunderabad, aggrieved by the order, dated 28.08.2015, passed in I.A.No.1896 of 2015 in A.S.(Sr).No.5251 of 2015 by the I Additional Chief Judge, City Civil Court, Secunderabad.

The aforesaid Suit filed by the petitioners for perpetual injunction against the respondents was decreed on 04.03.2015. Aggrieved by the same, respondents filed the aforesaid appeal and as there was delay in filing such appeal, they filed the present I.A. to condone the same. In the affidavit filed in support of the I.A., it is stated by respondent No.4 that the judgment under appeal was delivered on 04.03.2015, the counsel has applied for certified copy of the same on 07.03.2015 and the copy was made ready and delivered to the counsel on 01.04.2015, but due to the death of his mother on 05.04.2015, and thereafter, as he suffered with health problem, he could not file the appeal in time. Petitioners opposed the I.A. by filing counter. The Court below, by impugned order, dated 28.08.2015, allowed the I.A. on payment of costs of Rs.500/-.

In this revision petition, it is submitted by the learned counsel for petitioners that though the counsel has received copy of the order on 01.04.2015, the Court below, by misconstruing the same, as if the respondents could not approach the counsel due to the death of mother of respondent No.4 on 05.04.2015, has passed the impugned order. It is further submitted that the allegations are not substantiated by any material.

Having heard the learned counsel for petitioner, I have also perused the affidavit and counter affidavit filed in the I.A..

It is true that the counsel appearing for respondents has received the copy of judgment on 01.04.2015, but at the same time, it is to be noticed that in the affidavit filed in support of the I.A., it is stated that the mother of respondent No.4 died on 05.04.2015 and thereafter, as he fell ill, he could not contact his counsel. But, the petitioners herein have denied such averments only for want of knowledge and on the ground that such averments are not substantiated by any material. In the absence of any dispute on the death of mother of respondent No.4, as pleaded, and having regard to the reasons stated in the affidavit filed in support of the I.A., this Court is of the view that the delay is sufficiently explained. Hence, I do not find any merit in this revision petition, so as to interfere with the impugned order.

Accordingly, the revision petition is dismissed. Miscellaneous Petitions, if any, pending in this revision petition, shall stand closed. No costs.

R. SUBHASH REDDY, J

November 19, 2015

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