

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P.No.5630 OF 2015

ORDER:

This revision petition is filed challenging the order dated 30.10.2015 passed in I.A.No.365 of 2015 in O.S.No.19 of 2013 by the Senior Civil Judge, Bodhan, Nizamabad District dismissing the petition filed under Order VIII Rule 1A (3) read with Section 151 CPC to receive the documents after condoning the delay, only on the ground that the petitioners did not explain the reasons for non filing of the documents along with the written statement.

Learned counsel for the petitioners contended that dismissal of the petition is against law and the documents can be received at subsequent date of filing of written statement subject to explaining the reasons for non filing of the said documents.

Learned counsel for the respondent raised specific contention that the petitioners did not seek leave of the Court and hence, the Court below has rightly dismissed the petition, however, no substantial ground opposing the petition is raised.

In view of the facts and circumstances of the case and since the documents are necessary for deciding the real controversy between the parties, I find that the reason assigned by the trial Court is not sufficient to determine the substantial right of the parties. Moreover, the reason assigned by the petitioner for failure to produce document is sufficient cause to condone the delay in filing the document and receive the same, even the respondent's counsel did not oppose the petition on any substantial ground. Hence, the order of the trial Court is erroneous as it failed to exercise its jurisdiction that conferred on it.

Accordingly, the civil revision petition is allowed exercising power under Article 227 of the Constitution directing the trial Court to receive the documents subject to proof and relevancy. There shall be no order as to costs.

Miscellaneous petitions, if any, filed in this appeal shall stand closed.

M.SATYANARAYANA MURTHY,J

29.01.2016
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