

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.3468 of 2016

ORDER:

This Civil Revision Petition under Section 115 of Code of Civil Procedure (for short 'CPC') is filed challenging the Order dt.11.12.2015 in I.A.No.4 of 2015 in I.A.No. 93 of 2012 in O.S.No.155 of 2008 passed by Additional Judge-cum-VI Senior Civil Judge, City Small Causes Court, Hyderabad, whereby the trial Court dismissed the petition filed under Order 47 Rule 1 r/w Section 114 of CPC for review of the Order dt.8.09.2014 in I.A.No.93 of 2012.

2. The revision petitioners filed I.A.No.4 of 2015 for review of the Order, dt.8.9.2014 in I.A.No.93 of 2012 on various ground, but the trial Court dismissed the petition on the ground of limitation. If the question of limitation is decided, other questions need not be examined by this Court. Therefore, it is appropriate to advert to the Order, dt.8.9.2014 in I.A.No.93 of 2012 to find out whether the review petition is within time or not.

3. Though Notice was served on respondents, none put up appearance on behalf of respondents.

4. The Order in I.A.No.93 of 2012 was pronounced on 8.09.2014 by Additional Judge-cum-VI Senior Civil Judge,

City Small Causes Court, Hyderabad, copy application No.2921 of 2014 was filed on 12.09.2014 and it was made ready on 20.11.2014, but the review was filed on 16.12.2014. As seen from the endorsement of Superintendent of Copy Section on the Order in I.A.No.93 of 2014, it is evident that there is delay of four days in filing copy application after pronouncing the Order by the trial Court and after the certified copy was made ready, there is delay of 26 days and therefore, in total, the delay was 29 days after excluding the dates of ready or date of copy application and one of those days shall be excluded in calculating the period of limitation, in view of Section 12 of Limitation Act. Therefore, the Review Petition is filed within 30 days and the limitation for filing Review Petition is 30 days from the date of order under Article 124 of the Limitation Act. But, the trial Court did not consider the effect of Section 12 of the Limitation Act to exclude the time spent for obtaining certified copy and committed an error in dismissing Review Petition filed by the petitioners/defendants. Therefore, the Order passed by the trial Court in dismissing the revision petition on the ground that it is barred by limitation is erroneous and thereby set aside while remanding the matter to the trial Court to decide the Review Petition filed under Order 47 Rule 1 r/w 114 of CPC in accordance with law.

5. With the above direction, this Civil Revision Petition is disposed of. No costs.

As a sequel, miscellaneous petitions, if any, pending in this case, shall stand closed.

---

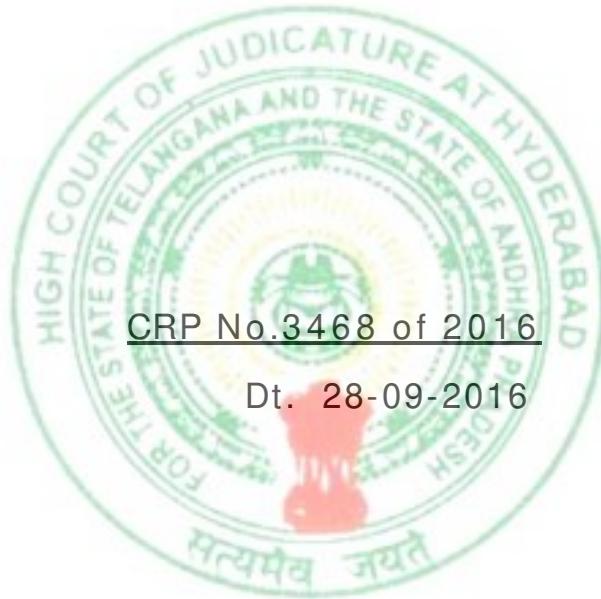
M. SATYANARAYANA MURTHY, J

Date: 28-09-2016.

eha



HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY



eha