

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.4333 OF 2016

ORDER:

Impugning the order of the learned VII Senior Civil Judge, City Civil Court, Hyderabad, in I.A. No.608 of 2014 in O.S. No.508 of 2013 dated 02.06.2016 in allowing the application to condone the delay of 303 days in filing the application to set-aside the *ex parte* decree dated 26.09.2013 passed in the suit, the present revision is maintained.

2) Heard learned counsel for the revision petitioners/ plaintiffs vis-à-vis learned counsel for respondents/ defendants. Perused the material on record.

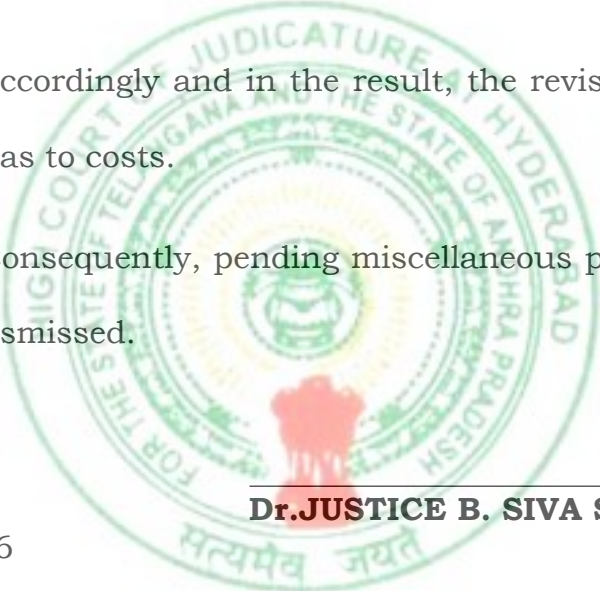
3) A perusal of the order shows that the application is filed to condone the delay of 303 days from the date of passing the *ex parte* decree. What the affidavit averments show is that the defendants recently came to know about the *ex parte* decree in which they were not served and filed the application after obtaining the certified copies. The same shows that the date of knowledge is within the period of limitation. Once it is so, no application to condone the delay under Section 5 of the Limitation Act need be filed, leave about a pragmatic approach to be adopted in a delay condonation application.

4) It is one of the contentions of the revision petitioners/ plaintiffs that the so-called certified copies obtained by the defendant after knowing of the *ex parte* decree not even filed before the lower Court to show when they came to know about the same in applying for certified copy to consider the same as commencement of date of knowledge. Once it is the trial Court,

which passed the decree and entertained the application and found no doubt from the averments, for this Court while sitting in revision it hardly requires any interference to probe into that. So far as merits are concerned, once the lower Court taken the pragmatic approach in condoning the delay, however, saying by imposing reasonable costs, what the amount of Rs.1,000/- is not sufficient to raise the same to Rs.2,000/- to be paid within one week from the date of receipt of the order. Since costs paid in open Court, the revision is disposed of upholding the impugned order of the lower Court allowing the application.

5) Accordingly and in the result, the revision is disposed of. No order as to costs.

6) Consequently, pending miscellaneous petitions, if any, shall stand dismissed.



Dr.JUSTICE B. SIVA SANKARA RAO

Dt.22.11.2016
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