

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.293 of 2010

ORDER:

Heard the learned counsel for the petitioner and the learned counsel for the respondent.

2. This Civil Revision Petition is filed challenging the order dt.06-10-2009 in I.A.No.4675 of 2007 in A.S.S.R.No.18209 of 2007 of the Chief Judge, City Civil Court, Hyderabad for recovery of a sum of Rs.20,000/- from the respondent with future interest at 24% per annum from the date of filing of the suit till date of realization.

3. The suit was decreed with costs of Rs.1490/-. The petitioner filed an execution petition to execute the said decree in the City Civil Court, Hyderabad.

4. However on 20-08-2007, the petitioner filed an appeal against the decree in the suit to the extent the trial Court did not grant relief of advocate fee and costs.

5. He also filed I.A.No.4675 of 2007 under Section 5 of the Limitation Act to condone the delay of 689 days in filing the appeal.

6. In the affidavit filed in support of the said application, he contended that he was a permanent resident of Kerala and to look after his business, he used to stay in Secunderabad but he was traveling between Kerala and Hyderabad a lot. He stated that because he was

busy with business affairs, was frequently traveling and due to ill-health, he could not prefer appeal within time.

7. Counter affidavit was filed by the respondent opposing the condonation of the delay and contending that the petitioner is not a permanent resident of Kerala, that after obtaining the decree, he has filed execution petition which the respondent has questioned in A.S.No.26 of 2008. He contended that to avoid receipt of notice in A.S.No.26 of 2008, petitioner proceeded with execution proceedings; this itself shows that he was available in Hyderabad; and since there is no valid and cogent explanation for condonation of delay, the application be dismissed.

8. By order dt.06-10-2009, the Court below dismissed I.A.No.4675 of 2007. It observed that the petitioner did not state when he received certified copy of judgment and decree in the said suit and the fact that he had filed an execution petition also shows that the cause pleaded by him as a ground for condonation of delay is not valid.

9. Challenging the same, this Revision Petition is filed.

10. Learned counsel for the petitioner contended that the Court below ought to have condoned the delay of 689 days in filing the appeal accepting the reasons given by the petitioner.

11. In view of the fact that the petitioner had obtained the certified copy of judgment and decree and even filed an execution

petition, he cannot give the reason that he was busy in his business activity or traveling between Hyderabad and Kerala as the reason for not filing the appeal in-time. No evidence about alleged illness is also placed on record by the petitioner.

12. I therefore do not find any valid ground to exercise jurisdiction under Section 115 CPC to interfere with the order passed by the Court below rejecting the application for condonation of delay.

13. Accordingly, the Civil Revision Petition is dismissed.
No costs.

14. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

Date: 20-10-2016
kvr



JUSTICE M.S.RAMACHANDRA RAO