

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.4536 OF 2016

ORDER:

The present Civil Revision Petition is filed by the 45th defendant alone challenging the order, dated 24-08-2016, in I.A.No.414 of 2016 in O.S.No.123 of 2013 on the file of the Principal Junior Civil Judge at Mancherial, Adilabad District.

The aforesaid I.A was filed under Section 151 C.P.C., requesting the Court to condone the delay of 149 days in re-submitting the petition in CFR.No.644 of 2016 filed with the prayer to receive the documents mentioned therein.

Heard Sri Venkateshwar Varanasi, learned counsel for the petitioner, and Sri Y.Neelakanta Reddy for Sri V.Ravi Kiran Rao, learned counsel for the 1st respondent/plaintiff.

Admittedly, no counter was filed in I.A.No.414 of 2016 resisting the request of the petitioner. The Court below has elaborately dealt with certain events and mostly dealt with other aspects, rather than the aspects that are really germane to decide the request made in the I.A. However, even excluding whatever has been observed by the Court below placing reliance on the decisions of the Hon'ble Supreme Court in **New India Assurance Company Limited v. A.Chalapathi and others¹**, **Ex.Capt.Harish Uppal v. Union of**

¹ 2012 (4) ALT 565

India² and Ramon Services Private Limited v. Subhash Kapur³, which touch the side issue, but not the main issue, the Court below dealt while dealing with the real issue, observing that the date on which the petitioner herein did suffer sunstroke was not mentioned, disbelieved the reason assigned for the delay and, thereby, dismissed the I.A.

When the parties are making a request to receive as many as 49 documents, that too with a delay condonation application to condone the delay in filing the petition to receive those documents, having answered queries raised by the office of the concerned Court, that too at the stage when the party intended to examine himself as a witness, such a request would not be turned down, as the endeavour of the Court is to render substantial justice and, in that direction, the main petition for receiving documents ought to be examined, more particularly, when no counter affidavit filed opposing the condonation of delay petition. It is also not a case where the revision petitioner filed the petition, to receive the documents, with intent to delay or protract the proceedings.

Learned counsel for the 1st respondent, though, supports the impugned order on the ground that the revision petitioner failed to mention the date of his ill-health, but, however, admits the fact of the respondents not filing the counter resisting the said I.A.

² 2003 (2) SCC 45

³ 2001 (1) SCC 118

Therefore, the Court below was not right in dismissing the I.A., and there is merit in the present revision.

The revision petition is, accordingly, allowed setting aside the order under challenge and allowing I.A.No.414 of 2016 in O.S.No.123 of 2013 on the file of the Principal Junior Civil Judge, Mancherial, condoning the delay of 149 days holding that the ill-health projected by the revision petitioner would constitute sufficient cause, and the Court below is directed to take the petition in CFR.No.644 of 2016 to its file and decide it on its own merits.

As a sequel, miscellaneous applications, if any pending in the instant revision, stand closed. There shall be no order as to costs.

A. SHANKAR NARAYANA, J

4th November, 2016

Note: Issue CC by 08.11.2016
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