

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.4735 of 2016

ORDER:

The petitioner was the defendant in O.S.No.111 of 2015 on the file of the learned Principal Junior Civil Judge, Ranga Reddy District, which was decreed by judgment dated 07.01.2016. As there was a delay of 14 days in the presentation of the appeal against the said judgment and decree, he filed I.A.No.830 of 2016 in ASSR.No.5343 of 2016 before the learned Principal District Judge, Ranga Reddy District, at L.B. Nagar, seeking condonation of the said delay. By order dated 27.06.2016, the appellate Court dismissed the petition. Aggrieved thereby, the petitioner/appellant is before this Court.

Heard Sri B.S. Kartik, learned counsel for the petitioner/appellant, and Sri J. Mallikarjun, learned counsel for the respondent.

Perusal of the order under revision reflects that the appellate Court was of the opinion that the delay was not 14 days but 20 days. Further, as the petitioner/appellant claimed that he had fallen sick but did not produce any evidence in proof thereof, the appellate Court was of the opinion that the laches on his part did not warrant condonation of the delay.

Sri J. Mallikarjun, learned counsel, would inform this Court the judgment under appeal has already been executed insofar as the delivery of the possession of the suit schedule property is concerned.

Sri B.S. Kartik, learned counsel, would point out that the judgment under appeal also required his client to pay arrears of rent and mesne profits and therefore that issue requires consideration by the appellate Court.

Given the aforesaid facts, this Court is of the opinion that the delay, be it 14 days or 20 days, was not substantial and the appellate Court ought to have been more lenient in considering the condone delay application. The rights of a litigant cannot be forfeited on technical grounds unless warranted. A delay in the range of 14 to 20 days would not be sufficient to non-suit the petitioner/appellant thereby denying him the opportunity of testing the judgment and decree passed against him by the trial Court.

In that view of the matter, the order under revision is set aside and the delay is condoned subject to payment of costs of Rs.500/- (Rupees Five Hundred only) to the respondent by the petitioner/appellant within two weeks from today. Upon production of the proof of such payment, the appellate Court shall entertain the appeal, if it is otherwise found to be in order, and deal with it in accordance with law.

The civil revision petition is allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

4th November, 2016
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