

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.2749 of 2016

ORDER:

Aggrieved by the order dated 30.03.2016 in I.A.No.1835 of 2012 in A.S.No.Nil/2012 on the file of the Court of Senior Civil Judge, Mangalagiri, Guntur District (for short, appellate Court), the present Civil Revision Petition is filed.

2. Petitioners herein are the defendants and the respondent herein is the plaintiff in O.S.No.107 of 2009 on the file of the Court of Principal Junior Civil Judge, Mangalagiri (for short, trial Court). The respondent filed the said suit as against the petitioners seeking permanent injunction in respect of the suit schedule property. The trial Court, by its judgment and decree dated 15.10.2012, dismissed the said suit. Challenging the said judgment and decree, the respondent filed A.S.No.Nil/2012 along with I.A.No.1835 of 2012 seeking condonation of delay of 15 days in filing the appeal. The appellate Court allowed I.A.No.1835 of 2012, by its order dated 30.03.2016, challenging which, the petitioners filed the present Civil Revision Petition.

3. The learned counsel for the petitioners submits that the order dated 30.03.2016 of the appellate Court has no basis or material before it. The delay has to be explained day-to-day, but in the present case, though the respondent did not give any reasons for the delay, the appellate Court condoned the delay subject to costs of Rs.1,000/- to be deposited in the State Account. He further submits that though the respondent shown the reason for the delay as fever and loose motions, he could not produce any medical proof to that effect and therefore the appellate Court should have rejected the application.

4. On perusal of the application filed by the respondent, it shows that the respondent has clearly mentioned that due to viral fever and loose motions, he could not consult his advocate to file the appeal within time. It is pertinent to mention here that if the Court satisfies with the reason for the delay, it can use its discretion and condone the delay. Though in the present case, the respondent taken the ground of viral fever and loose motion for the delay and did not file the medical proof, the appellate Court, keeping in view the period of delay and the facts and circumstances of the case, allowed the application by its order dated 30.03.2016 with costs of Rs.1,000/-.

5. In view of the above, I find no discrepancy in the order of the appellate Court and therefore I am not inclined to interfere with the same. Hence, the Civil Revision Petition is dismissed. No order as to costs. Miscellaneous Petitions, if any pending, shall stand dismissed.

SURESH KUMAR KAIT, J

Date: 27.06.2016

TJMR