

THE HON' BLE SRI JUSTICE V. RAMASUBRAMANIAN

C.R.P. No. 4431 of 2016

ORDER:

The revision arises out of the refusal of the Court below to condone the delay of 355 days in filing a regular appeal against a preliminary decree for partition.

Heard Mr. Y.S. Subrahmanyam, learned counsel for the petitioner.

Mr. B. Devanand, learned counsel takes notice for the first respondent. The other respondents were only defendants in the suit and hence, notice to them is dispensed with.

The suit was for partition. The trial Court granted a preliminary decree in favour of the first respondent. The appeal was filed by the petitioner herein with a delay of 355 days. In the application for condonation of delay, the petitioner has averred that he was 71 years of age at that time and that he was frequently falling ill. He has also mentioned the name of the Doctor from whom he was taking treatment. Therefore, the first appellate Court need not have adopted a pedantic approach.

The petitioner has stated his age to be 71 years. The first appellate Court has taken exception to the medical certificate indicating his age to be 75 years. This is something very trivial and hence, I am of the considered view that the revision needs to be allowed.

Accordingly, the Civil Revision Petition is allowed and the impugned order is set aside. The condone delay petition is allowed. The first appellate Court is directed to number the first appeal and dispose it of within four months.

Pending Miscellaneous Petitions shall stand closed. No order as to costs.

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V. RAMASUBRAMANIAN, J

Date: 28.10.2016

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