

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.5115 OF 2016

ORDER:

The order of dismissal of I.A. No.56 of 2014 in A.S. No.NIL of 2010 filed by the petitioners, who are appellants, seeking to condone the delay of 630 days in filing the appeal, is questioned in this revision petition.

The appellants are the defendants in the suit filed by the plaintiff, which is an inter-pleader suit. The suit came to be decreed on 18.03.2009. Thereafter, the petitioners filed appeal with a petition to condone the delay of 630 days in filing the appeal. The reasons stated by the petitioners-appellants are that their Advocate did not inform them about passing of the judgment and decree.

The respondents filed counter affidavit opposing the condonation of delay.

The learned trial Judge has taken into consideration of the fact, while dismissing the I.A., that the duty lies on the petitioners to keep track of the matter entrusted with the Advocate and also the day-to-day delay has not been explained to condone the delay.

Learned counsel for the petitioners submits that the petitioners are defendants 3 and 4; and the respondents 2 and 3 are defendants 6 and 7 in the suit filed by the 1st respondent. The suit is inter-pleader suit and the substantial rights of the parties are involved, and for the mistake committed by the counsel in not informing about passing of decree to the petitioners, the petitioners shall not be made to suffer

and therefore, he prays for condonation of delay on some conditions with respect to costs.

Learned counsel for the respondents 2 and 3 vehemently opposed the application and further urged that the petitioners have failed to state the reasons for day-to-day delay as is required under Section 5 of the Limitation Act.

Learned counsel for the 1st respondent submits that he has no objection for condonation of delay.

Considering the fact that it is only a mistake on the part of the Advocate in not informing about passing of the decree to the petitioners, interest of justice would be served if the delay is condoned by putting some conditions on the petitioners, as it is well settled that the First Appeal is a right, which is conferred to protect the substantial rights of the parties concerned. Therefore, considering the nature of disputes involved in the present case, Rs. 15,000/- shall be the reasonable amount towards costs to be paid by the petitioners.

Accordingly, subject to the condition of petitioners paying a sum of Rs. 15,000/- (Rupees fifteen thousand only) towards costs, payable to the each of the respondents 1 to 3 in the revision petition at Rs. 5,000/- (Rupees five thousand only), the revision petition is allowed.

Miscellaneous petitions pending if any, shall stand closed.

CHALLA KODANDA RAM, J

March 24, 2017

KTL