

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.726 Of 2011

ORDER:

1 This Civil Revision Petition, under Section 115 of CPC, is filed challenging the order dated 02.11.2010 passed in I.A.No.5526 of 2009 in A.S.SR.No.21436 of 2009 on the file of the Court of the Principal District Judge, Ranga Reddy District at L.B. Nagar.

2 Heard the counsel for both the parties.

3 A perusal of the record reveals that initially the first respondent herein filed O.S.No.1386 of 2005 on the file of the Court of the Principal Junior Civil Judge, Ranga Reddy at L.B Nagar against the petitioner and respondent Nos.2 to 4 herein for recovery of an amount of Rs.64,299/- with interest at the rate of 12% p.a. During the pendency of the suit, the same was transferred to the Court of the Additional Junior Civil Judge, Cyberabad, Kukatpally where it was renumbered as O.S.No.793 of 2008. After full fledged trial, the trial Court decreed the suit on 08.10.2009. Feeling aggrieved by the judgment and decree of the trial Court, the petitioner herein preferred appeal ASSR No.21436 of 2009 to the Principal District Court, Ranga Reddy District at L.B.Nagar along with a petition I.A.No.5526 of 2009 to condone delay of 25 days in preferring the appeal. The appellate Court dismissed the said application by order dated 02.11.2010. Hence the present Revision.

4 The approach of the Court shall be pragmatic and not pedantic while disposing of the applications filed under Section 5 of the Limitation Act. In the instant case, the delay is only 25 days. The petitioner has assigned reasons much less valid reasons for not filing

the appeal within the period of limitation. If the petition is dismissed, it may not be possible for the petitioner to ventilate his legitimate grievance. On the other hand, even if the petition is allowed, no prejudice will be caused to the respondent.

5 At the time of argument, the learned counsel for the submitted that the petitioner deposited 50% of the decretal amount with costs to the credit of O.S.No.793 of 2008. The learned counsel for the respondent submitted that the respondent may be permitted to withdraw the deposited amount. The learned counsel for the petitioner also consented for the same.

6 Having regard to the facts and circumstances of the case, I am of the considered view that this is a fit case to allow the Civil Revision Petition.

7 Accordingly, this Civil Revision Petition is allowed setting aside the order dated 02.11.2010 passed in I.A.No.5526 of 2009 in ASSR No.21436 of 2009 on the file of the Court of the Principal District Judge, Ranga Reddy District at L.B. Nagar and consequently the I.A.No.5526 of 2009 stands allowed. The appellate court is hereby directed to number the appeal, if it is otherwise in order. The trial Court is further directed to permit the respondent herein to withdraw the deposited amount in O.S. No.793 of 2008 after numbering of the appeal. No order as to costs. As a sequel, miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

T. SUNIL CHOWDARY, J.

Date: 01.02.2017

Kvsn