

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.2740 of 2017

ORDER:

Heard learned counsel for petitioner and learned counsel for respondents and perused the impugned order dated 17.04.2017 passed in I.A. No.949 of 2014 in unregistered A.S. No. of 2014 by the Principal District Judge, Nalgonda, dismissing the application to condone the delay of 572 days in filing the appeal.

The reason assigned by the petitioner is that she has no knowledge about the disposal of the suit but for having received the notice in the final decree application to work out the preliminary decree reliefs and the delay occurred is only therefrom in filing the appeal.

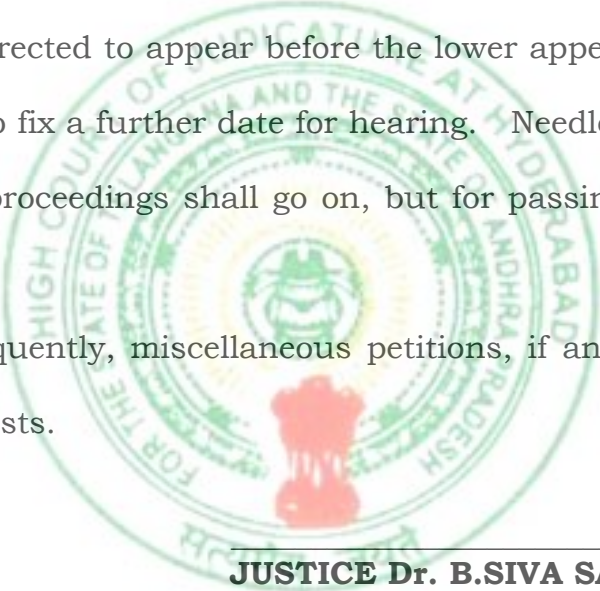
The contention of the learned counsel for respondents, who are revision respondents is that the reason assigned by the petitioner is false and there is no basis for such allegation to believe and the lower Court also accepted the contention of the respondents.

No doubt, the petitioner was supposed to have atleast issue a notice to the said advocate or obtained his affidavit and same was not done herein. However, coming to the latches of the advocate in not informing about the decree of the trial Court, the said fact when stated on oath, there is nothing to say said version is *per se* false or the allegations are baseless, that too, when the approach required is pragmatic as no way without some cause behind intentionally allowed his right to file appeal being time barred. As such the said application ought to have been allowed by the lower Court at best subject to costs for even length of

period no way can influence the mind of Court when there is just and sufficient cause to condone delay.

Having regard to the above, the revision is allowed setting aside the impugned dismissal order of the lower Court in I.A. No.949 of 2014 dated 17.04.2017 and by allowing the same subject to costs of Rs.5,000/- to be payable to respondents. Since costs have been paid to the counsel for respondents by recording the same, the lower Court is directed to number the appeal, if otherwise in order, and dispose of the appeal on merits within six months from the date of receipt of the order and both parties are directed to appear before the lower appellate Court on 17.07.2017 to fix a further date for hearing. Needless to say, the final decree proceedings shall go on, but for passing of any final decree.

Consequently, miscellaneous petitions, if any, shall stand closed. No costs.



JUSTICE Dr. B.SIVA SANKARA RAO

Date: 23.06.2017
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