

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**C.R.P.No.5073 of 2017**

**O R D E R:**

This Civil Revision Petition is filed challenging the order dt.06.06.2017 in I.A.No.673 of 2016 in AS(SR).No.4525 of 2015 of the IX Additional District Judge, West Godavari at Kovvur.

2. Petitioner herein was plaintiff in O.S.No.751 of 2005 on the file of the Additional Junior civil Judge, Kovvur. The said suit was filed for specific performance of an agreement of sale.

3. The trial Court only granted alternative relief of recovery of advance paid by the petitioner by judgment and decree dt.25.11.2014.

4. Assailing the same, ASSR.No.4525 of 2015 was filed before the IX Additional District Judge, West Godavari at Kovvur with a delay of 320 days along with an application I.A.No.673 of 2016 under Section 5 of the Limitation Act, 1963 to condone the said period of delay.

5. In the affidavit filed in support of the said application, it was stated by petitioner's father that he was the General Power of Attorney Holder of the petitioner, that he was unwell on account of Jaundice and could not attend to his advocate in time to file appeal, and so the delay be condoned.

6. Counter affidavit was filed by the respondents contending that nothing prevented the petitioner from getting the appeal filed within time even if her GPA Holder was unwell.

7. This contention found favour with the lower appellate Court.

8. It held that the GPA Holder is none other than petitioner's father, that it is not her case that during the period her father suffered with Jaundice, taken treatment in an agency area, she had no contact with her father, and if the GPA Holder is not in a position to act on behalf of the petitioner, the petitioner could have taken steps to proceed with the matter.

9. I completely agree with the reasoning of the lower appellate Court and hold that if the GPA Holder of the petitioner was unwell and could not file the appeal in time, nothing prevented the petitioner from taking steps to file appeal within time. So, it cannot be said that the petitioner has shown sufficient cause for condoning the delay of 320 days in filing the appeal.

10. Therefore, I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Section 115 of Civil Procedure Code.

11. Accordingly, this Civil Revision Petition is dismissed.

No costs.

12. Consequently, miscellaneous petitions pending if any shall stand closed.

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**M.S.RAMACHANDRA RAO, J**

06<sup>th</sup> October, 2017.

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