

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

C.R.P.No.2442 of 2017

ORDER

This petition under Section 115 of CPC is filed by petitioner against the order dated 15.02.2017 passed in I.A.No.6026 of 2016 in A.S.(SR).No.26491 of 2016 by the Chief Judge, City Civil Court, Hyderabad, declining to condone delay of 136 days in filing the appeal against the judgment and decree dated 01.06.2016 passed in O.S.No.918 of 2011 by the VIII Additional Junior Civil Judge, City Civil Court, Hyderabad, stating that he approached his counsel and instructed to file a copy application for obtaining the certified copy of judgment and decree to file an appeal and in turn, his counsel instructed his junior counsel, by name, Smt V. Vijaya Lakshmi to file copy application, but due to heavy work and slip of memory, she could not pursue the matter regularly and that he is under impression that junior counsel filed copy application. It is stated that later, in the month of October, 2016, said Vijaya Lakshmi informed that the earlier copy application filed by her was struck off long back due to non-deposit of xerox charges. It is stated that due to personal and family problems, the petitioner could not approach his counsel and pursue the copy application. Apart from his personal problems, the junior counsel did not attend the office and the Court regularly as her mother expired in the month of October, 2016 and the CA fled earlier was struck off and later, she filed CA on 26.10.2016 and obtained certified copy on 07.11.2016 and filed the present appeal.

2. It is clear from the record that the petition was filed under Order 41 Rule 3-A of CPC read with Section 5 of Limitation Act only on the ground that though the suit was dismissed in the month of June, 2016, either petitioner or his counsel did not pursue the copy application due to his personal and family problems and also pleaded that due to heavy work and slip of memory, the junior counsel could not take care of the copy application. But the nature of problems faced by petitioner was not disclosed in the affidavit, except making a bald allegation that due to his personal and family problems, he could not pursue the copy application to obtain the certified copy of judgment and decree in O.S.No.918 of 2011.

3. Viewed from any angle, the heavy work of the counsel and the personal and family problems of the petitioner are not sufficient grounds which prevented the petitioner from filing an appeal. When a judgment was pronounced and copy application is made, it is for the petitioner to pursue the matter and prosecute the proceedings. But the petitioner in most callous and casual manner pursued the proceedings before the Court and a person, who is negligent in prosecuting the proceedings before the Court, is not entitled to claim discretionary relief of condonation of delay either under Section 5 of Limitation Act or under order 41 Rule 3-A of CPC. In the absence of any reason for condoning the delay, the Court cannot condone such delay on mere asking.

4. The Apex Court in **Pundlik Jalam Patil (D) by Lrs vs Executive Engineer, Jalgaon Medium Project**¹ held as under:

“law of limitation fixes a life span for every legal remedy for the redress of the legal injury suffered. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of Limitation is thus founded on public policy.

The object of law of Limitation is to prevent disturbance and deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches". This principle is based on the maxim "interest republicae ut sit finis litum, that is, the interest of the State requires that there should be end to litigation but at the same time law of Limitation are a means to ensuring private justice suppressing fraud and perjury, quickening diligence and preventing oppression.

It needs no restatement at our hands that the object for fixing time limit for litigation is based on public policy fixing a life span for legal remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. Salmond in his jurisprudence states that the laws come to the assistance of the vigilant and not of the sleepy”.

In the present case, the petitioner slept over for a considerable period for one reason or the other and invented a story of personal and family problems. In such case, the petitioner is disentitled to claim extension of limitation for filing the appeal. Law of limitation may harshly effect a particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds and the discretion exercised by the High Court was, thus, neither proper nor judicious, as held by the Apex Court in **P.K. Ramachandran vs State Of Kerala**².

¹ 2008 XI AD (SC) 377

² AUR 1998 SC 276

5. Viewed from any angle, the petitioner is not vigilant in prosecuting the proceedings and invented a story that due to his personal and family problems, he could not pursue the copy application to obtain the certified copies and his counsel was very busy with the work. These two grounds, which prevented the petitioner from filing an appeal, are not sufficient and the reason is beyond his reasonable control. Therefore, I find no grounds to condone the delay and the petition is liable to be dismissed.

6. In the result, the Civil Revision Petition is dismissed. No order as to costs. Miscellaneous petitions, if any, pending in this revision shall stand dismissed.

M. SATYANARAYANA MURTHY, J

19th July, 2017
sj

