

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Civil Revision Petition No.4315 of 2015

ORDER :

Heard both sides. Perused the grounds of the revision and the impugned order of the lower Court, leave about the fact that the pragmatic approach is required generally in consideration of the applications to condone the delay in interpreting the existence of the sufficient cause or not, not only within the meaning of Order XLI Rule 3-A of CPC but also under Section 5 of the Limitation Act. It is not the length of the period of delay but the sufficient cause with that pragmatic approach a matter for appreciation; though there is no sufficient ground for the alleged say of tremendous financial crisis in not maintaining the appeal for such a long period of 1108 days delay as rightly contended by the learned counsel for the revision petitioner before the lower Court in the delay condonation application I.A.No.2569 of 2014 in the unnumbered appeal; the fact remains that the respondent also, for part of the suit claim dismissed, already maintained an appeal with 25days delay that was allowed by condoning the delay and the appeal is pending. Once such is the case for the appellate Court even appeal against the part of the suit decreed and for remaining portion dismisses the entire matter would be at large including under Order XLI Rule 33 r/w Order XLI Rule 24 CPC provided the parties are before the Court, here though without positive appeal maintained, further relief cannot be granted but for impugning the relief already made subject matter of the appeal, the factual

matrix requires to consider, thereby for the approach of the lower court in considering the delay subject to costs no way requires interference but for to enhance from Rs.500/- to Rs.5000/-.

Accordingly, the revision is partly allowed. The revision respondent is directed to pay balance amount of Rs.4,500/- towards costs within one week from the date of receipt of the order. Failing which the order of the lower Court automatically ceases its force. Consequently, Miscellaneous Petitions, if any, pending in this Revision, shall stand closed.

JUSTICE Dr. B. SIVA SANKARA RAO

Date:26.12.2017
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