

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.4845 of 2017

Order:

Aggrieved by the order of the First Appellate Court dismissing an application for condonation of the delay in representing the papers in an appeal, the decree-holder has come up with the above civil revision petition.

2. Heard Mr. B.Bala Murali Krishna, learned counsel for the petitioner and Mr. Narasimha Rao Gudiseva, learned counsel for the 1st respondent.

3. The 1st respondent herein filed a claim petition in E.A.No.354 of 2006. It was allowed by an order dated 06-02-2015.

4. Aggrieved by the said order, the petitioner/decreed-holder filed a regular first appeal. It was returned pointing out certain defects on 10-4-2015. There was a delay of 663 days in representation. The First Appellate Court refused to condone the delay, by taking a pedantic approach. Therefore, the decree-holder is before me.

5. The contention of Mr. Narasimha Rao Gudiseva, learned counsel for the 1st respondent, is that the 1st respondent has become the absolute owner of the property sought to be attached and brought to sale by the petitioner herein, in execution of a money decree and that her purchase was much before the order of attachment. Therefore, the

learned counsel contends that there is not a ray of hope for the petitioner to succeed in the first appeal.

6. But the question as to whether the petitioner has a good case on appeal or not, can be seen only after she is allowed to represent the appeal. We are at the threshold. First appeal is a matter of right. A valuable right cannot be allowed to be defeated by adopting such an approach.

7. The petitioner has explained the reasons for the delay. The question of condonation of delay in filing an appeal will stand on a different footing from the question of condonation of delay in representation. In olden days, representation was considered only as a matter between the Court and the petitioner who made such presentation. With change of time, Courts have started adopting a different approach.

8. In view of the above, the civil revision petition is allowed, the impugned order is set aside and the delay in representation is condoned. The First Appellate Court shall number the regular appeal if it is otherwise in order and proceed in accordance with law. The miscellaneous petitions, if any, pending in this revision shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

30th November, 2017.
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