

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CRP No. 963 of 2018

ORDER :

This civil revision petition is filed against the order dated 06-02-2018 passed in IA No.486 of 2016 in AS (SR) No.1586 of 2016 whereby and whereunder the Court below dismissed the said IA filed under Order 41, Rule 3 (A) CPC and Section 5 of the limitation Act to condone delay of 265 days in filing the appeal by the petitioners who are defendants in suit OS No.246 of 2010.

2. Heard the learned counsel for the petitioners and the learned counsel for the respondent. Perused the impugned order passed by the Court below.

3. It is to be seen that the revision petitioners are none other than the mother and sister of the respondent. Respondent filed suit for partition and separate possession after ejecting the revision petitioners therefrom and for other reliefs. The revision petitioners seek to assail the judgment and decree in the said suit by way of appeal. Parties are closely related. 1st petitioner is mother of the respondent and she is aged about 72 years and is stated

to be suffering with ailments. The suit filed for partition by the respondent is decreed against the petitioners. If the petitioners are denied the opportunity to file appeal, they will lose the right of appeal. It is settled proposition of law by catena of decisions of this Court as well as the Supreme Court that petitions filed under Section 5 of the Limitation Act is to be construed liberally and to advance the cause of justice. Sufficient reasons are mentioned in the affidavit filed in support of the condonation petition.

4. In the circumstances, the impugned order is set aside and IA No. 486 of 2016 is allowed, delay of 265 days in filing appeal is condoned. Since the 1st petitioner is senior citizen, aged 72 years, the appeal be disposed of expeditiously, in accordance with law. In the result, the civil revision petition is allowed. Miscellaneous petition if any pending in the case shall stand disposed of. No order as to costs.

A.RAJASHEKER REDDY, J

Dated: 12-06-2018
NRG

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