

THE HON'BLE SRI JUSTICE S.V.BHATT

C.R.P.Nos.1760 & 1761 of 2012

COMMON ORDER:

Respondent Nos.1 and 2 in I.A.Nos.735/2011 and 15/2012 are the revision petitioners.

Respondents 1 to 4 herein filed the said applications for condoning the delay of 235 days in filing an application to bring the legal representatives on record of deceased appellant Md.Abdul Hameed Siddiqui.

Learned XII Additional Chief Judge, City Civil Court through the orders impugned in the Civil Revision Petitions condoned the delay in filing the petition and also ordered respondents 2 to 5 herein to come on record as appellants. Hence, the Civil Revision Petitions.

Mr.Nazeeb Khan contends that the affidavits filed in support of these two applications do not furnish sufficient cause and/or inspire the confidence of this Court to exercise its discretion either to condone the delay in filing application or bring legal representatives of Md.Abdul Hameed Siddiqui (deceased) on record. Against the reasoning of the trial Court that 235 days delay is condoned is contrary to the principle laid down by the Apex Court in its decisions reported in ***B.Madhuri***

***Goud versus B.Damodar Reddy*¹ and *Paramjeet Batra versus State of Uttarakhand And Others*²**

On the other hand, Ms.Manjari S,Ganu contends that the objection that the affidavit does not contain the details is not fully correct. The legal representatives keeping in view the purpose for which these two applications are filed have disclosed sufficient cause which has been accepted by the trial Court. She makes no bones in contending that the revision petitioners' expectation that in all these applications, the trial Court or appellate Court is required to write lengthy orders may not conform to the substantive adjudication the Courts undertake. On the legal ground raised by the revision petitioners that unless and until there is an application for setting aside the order of abatement, the prayer of condonation of delay or bring legal representatives on record ought not have been considered by the trial court. She refers to the decision reported in ***Kadali Achamma and others vs. Vuppuganti Sitapati Rao and others***³ and contends that the said question is no more *res integra*.

I have perused the record and noted the submissions of Mr.Nazeeb Khan. *Prima facie*, this Court is of the view that the decisions relied on by the revision petitioners are distinguishable to the fact situation of the present case. The

¹ (2012) 12 SCC 693

² (2013) 11 SCC 673

³ 1990 (2) ALT 610

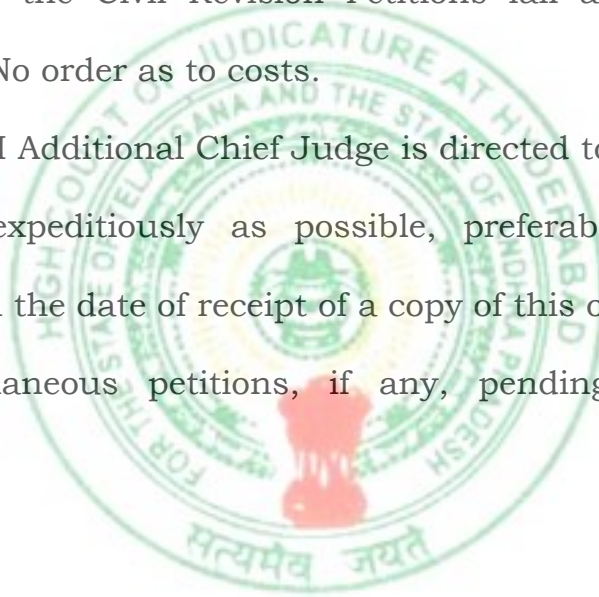
suit is for declaration of title and recovery of possession. The unsuccessful plaintiffs are the appellants before the XII Additional Chief Judge, City Civil Court. Under those circumstances, even if a few omissions are there, this Court is of the view that in exercise of its revision as jurisdiction ought not to substitute its reasoning unless grave injustice or illegality is pointed out.

After perusing the record, I am satisfied though reasons are brief, are tenable.

Hence, the Civil Revision Petitions fail and accordingly dismissed. No order as to costs.

The XII Additional Chief Judge is directed to dispose of the appeal as expeditiously as possible, preferably within four months from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending, shall stand closed.



S. V. BHATT, J

Dt: 05.09.2018
dv

