

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CRP.No.3496 of 2012

O R D E R:

This revision petition is filed against the order dated 16.2.2012 in I.A.No.3099 of 2011 in AS.SR.No.7421 of 2011.

An application was filed in the lower Court for condoning the delay of 32 days in filing the appeal. The deponent, in the affidavit, stated that she is the first petitioner therein and appellant No.1 in the main appeal and that she is giving the affidavit on behalf of the other appellants also. The averment in the affidavit is that as her aunt died, she was held up at Vijayawada till 24.10.2011 and that consequent to bereavement in the family, there was delay of 32 days in filing the appeal. The lower Court has dismissed the application essentially on the ground that the delay is not satisfactorily explained and that there is no reason why the other two petitioners were prevented from filing the appeal.

Learned counsel for the respondent supported the reasoning of the lower Court while agreeing that the delay is not very much.

As the first appeal is a right guaranteed to a party and is considered to be a continuation of the suit, this Court is of the opinion that the bereavement in the family and the consequential delay of 32 days is not so grave as to reject the first appeal at the threshold itself. This Court holds that the cause stated in the application is a sufficient cause and the delay is condoned.

Therefore, the Civil Revision Petition is allowed. The order dated 16.2.2012 passed in IA.No.3099 of 2011 in ASSR.No.7421 of

2011 on the file of District Judge, East Godavari, Rajahmundry, is set aside. The lower Court is directed to take the appeal on file, if it is otherwise in order.

Pending miscellaneous petitions, if any, shall stand closed.

No order as to costs.

D.V.S.S.SOMAYAJULU, J

Date: 20/04/2018

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