

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.2630 of 2018

ORDER:

Questioning the dismissal of the delay condonation petition in filing first appeal, the present Civil Revision Petition is filed.

The reason stated for the delay in not filing the appeal in time is that the petitioner had mixed up the certified copies of the judgment and the decree with her office files and in spite of her best efforts, she could not trace the same and it is only after tracing out the papers, the same were handed over to the counsel. In that process only the delay occurred.

Learned counsel for the petitioner submits that the petitioner is a teacher and the reasons stated for not tracing the certified copies of the judgment and the decree are genuine. Further, the respondent is also another teacher and the petitioner has a fair case to succeed in the main appeal.

Learned counsel appearing for the respondent vehemently opposed to condone the delay and submits that the every day's delay has not been explained by the petitioner. She would further submit that the Court had dismissed the Application after considering the facts on record and particularly, there being alteration in the date and the case of the petitioner was not believable in any way. She would further oppose on the ground that the respondent was unnecessarily harassed and was made to face the legal proceedings without there being any truth in the claim of the petitioner.

Considering the respective submissions, it is to be seen, the reasons stated in the delay condonation petition are that the judgment and decree copies were mixed up with the petitioner's office papers. It is an admitted and undisputed fact that the petitioner is working as a teacher. There is a possibility that the papers could have been mixed up with her office papers and thereby, there is a possibility of delay occurring in filing the appeal. One important fact in the present case is that the petitioner's counsel has applied for certified copies on the same day and also promptly deposited the stamps and collected the certified copies of the judgment and the decree. In other words, there is an element of diligence on the part of the petitioner and she was also truthful in stating in the affidavit that the advocate had handed over the judgment and decree and it is only her fault in mixing up with the office papers. Considering the fact that the appeal is a valuable right and also considering the fact that the Supreme Court has repeatedly held that delay condonation petitions would have to be considered more liberally, the Civil Revision Petition deserves to be allowed, however, on payment of costs of Rs.3,000/-. Considering the fact that the amount claimed in the suit is Rs.63,000/-, imposition of costs of Rs.3,000/- is reasonable.

The impugned order is, therefore, liable to be set aside and the delay is condoned on payment of costs of Rs.3,000/- (Rupees three thousand only), payable within two weeks from today by way of demand draft, drawn in favour of the respondent-defendant. It is made clear that handing over the Demand Draft to the learned counsel for the respondent, who is representing the suit, would be sufficient compliance of the same. On filing the same, the

petitioner shall also file an affidavit before the Court below stating the compliance of the order and on such compliance being reported, the Appeal shall be numbered and further proceedings be conducted.

Accordingly, the Civil Revision Petition is allowed with costs of Rs.3,000/- payable to the respondent by way of Demand Draft within two weeks from the date of this Order.

As a sequel, pending miscellaneous petitions, if any, shall also stand closed.

Date: 03.10.2018

Note: Issue CC forthwith.
B/o
Ssv

CHALLA KODANDA RAM, J.

