

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.3642 of 2018

ORDER:

The revision petitioner is the appellant in unnumbered C.M.A. before the learned Principal District Judge, Nellore along with the appeal for the delay of 61 days. He filed I.A.No.618 of 2016 to condone the delay of 61 days in filing the unnumbered C.M.A. After contest, the same was ended in dismissal by order dated 22.03.2018 passed by the learned Principal District Judge, Nellore. Impugning the same, the present Civil Revision Petition is maintained.

2. Heard the learned counsel for revision petitioner and the learned counsel for respondent and perused the grounds of revision and the impugned order of the lower Court.

3. In the application to condone the delay of 61 days in filing the unnumbered C.M.A. supra, the reasons assigned for the delay of 61 days is that the certified copy of the decree in O.S.No.111 of 2012 applied on 07.07.2015 and was made ready on 14.08.2015 and delivered on 17.08.2015, whereas the decretal order and the certified copy of the order in I.A.No.591 of 2012 concerned applied on 04.09.2015 and was made ready on 22.09.2015 and delivered on 29.10.2015 and originally it was struck off from the latches of the advocate clerk and later the application for restoration of the copy application is filed and allowed and it was made ready as referred

supra on 07.07.2015 for the order and decretal order in I.A.No.591 of 2012 to maintain the unnumbered appeal. It is further averred that the petitioner went to Karaveti Nagaram of Chittoor District in view of the death of his son-in-law and there was delay in filing the miscellaneous appeal. The observation of the lower Court in the impugned order is that when he went and when he returned did not mention with particulars and thereby, the delay is not properly explained so also about the C.A. application originally struck off and restored not even mentioned.

4. Undisputedly, the approach is pragmatic and not hair splitting. Once the delay is explained after obtaining of the certified copy when returned in connection with the death of his son-in-law and the same is explained for the delay, there is no further need of explaining the day-to-day delay. In this regard, the dismissal of the order of the lower Court saying when he went and when he returned did not mention with day-to-day delay is untenable and thereby, the revision is allowed by setting aside the dismissal order of the lower Court and allowing the application in I.A.No.618 of 2016 before the learned Principal District Judge, Nellore by condoning the delay of 61 days subject to condition of payment of Rs.1,000/- (Rupees one thousand only) to the Army Welfare Fund, India, within one (1) week from today and file proof of payment, after receipt of a copy of this order, before the learned Principal District Judge, Nellore to entertain the unnumbered C.M.A. therefrom. If no proof is filed before the lower

Court in compliance with this order, the order of the lower Court holds good for all purposes without any further reference to this Court.

Accordingly, this Civil Revision Petition is allowed. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

28.08.2018
MVA

