

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

C.R.P.No.2618 of 2010

ORDER:

This application is filed questioning the order dated 1.4.2010 in I.A.No.14 of 2009 in A.S.S.R.No.27 of 2009 passed by Principal District Judge, Ranga Reddy District.

The application that was dismissed in the lower Court is an application filed under Section 5 of the Limitation Act to condone the delay of 15 days in filing the first appeal. The affidavit of the deponent in the lower Court reveals that he nor his counsel were aware of passing of the Decree. It is stated that when the counsel was going through 'A' diary on 22.11.2008, he noticed that the judgment was delivered on 15.10.2008. Thereafter, immediately he applied for certified copies of the judgment and decree, which were supplied on 24.12.2008, and in this process, the delay of 15 days occurred.

In the lower Court, when this application is filed, the respondent remained *ex parte* but the lower Court dismissed the application holding that the affidavit of the first petitioner is filed in a very causal manner and the reasons given by the 1st petitioner were not enough to constitute sufficient cause. This order is assailed in the revision now.

Learned counsel for the petitioners submits that in the lower Courts, the cause lists are not published and the notice displayed on the notice board may some times slip the attention of the counsels. Even otherwise, it is his submission that the delay of 15 days cannot be said to be inordinate delay, particularly, as the first appeal is a valuable right of the petitioners.

This Court also finds that the Court below took a very rigid view of the affidavit that is filed. It is not unknown for the counsels to miss the dates on which the judgments are pronounced, and in this case, the delay was only 15 days which is neither inordinate nor too long. The valuable right of the first appeal that is available to the party cannot be taken away by such rigid stand. Therefore, this Court is of the view that the delay should be condoned. The reasons given for the delay are acceptable and the delay is condoned.

In the result, the revision petition is allowed and the order dated 1.4.2010 in I.A.No.14/2009 in A.S.S.R.No.27/2009 is set aside. The lower Court is directed to take the first appeal on file, if it is otherwise in order. No costs.

Miscellaneous Petitions pending, if any, in this petition shall stand closed.



D.V.S.S.SOMAYAJULU,J

Date: 30/01/2018

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