

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.3579 OF 2018

ORDER:

This Civil Revision Petition is filed under Section 115 of C.P.C. assailing the order dated 20.04.2018 passed in I.A.No.5877 of 2017 in A.S.S.R.No.32336 of 2017 on the file of the Chief Judge, City Civil Court, Hyderabad.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the first respondent filed O.S.No.631 of 2008 on the file of the Court of the First Senior Civil Judge, City Civil Court, Hyderabad, against the petitioners and respondent Nos.2 to 6 to eject them from the suit schedule property. After full-fledged trial, the trial Court decreed the suit on 16.10.2017 in favour of first respondent. Aggrieved by the same, the petitioners filed A.S.S.R.No.32336 of 2017 along with I.A.No.5877 of 2017 under Section 5 of Limitation Act to condone the delay of 30 days in preferring the appeal. The first appellate Court dismissed the said petition. Hence, the revision petition.

4. A perusal of the record reveals that the trial Court pronounced judgment on 16.10.2017 and the petitioners obtained the certified copy of the judgment on 10.11.2017. Hence, there is a delay of 30 days in filing the appeal.

5. It is needless to say that while deciding the interlocutory applications of this nature, the approach of the Court shall be pragmatic and not pedantic. While deciding this type of petitions, the Court has to consider whether dismissal of such petition will

prevent the party to put forth his/her legitimate grievances. At the same time, the Court has to consider whether allowing of such petition would cause prejudice to the respondents. If the petition is dismissed on technical grounds, the litigant public may feel that the Court shuts its doors without permitting them to ventilate their grievances. If the petition is not allowed, it may not be possible for the petitioners to ventilate their legitimate grievance. Even if the petition is allowed, the same may not cause any prejudice to the respondent. The petitioners have assigned reasons much less cogent and valid reasons for non-filing of the appeal within a period of limitation.

6. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that it is a fit case to condone the delay of 30 days in preferring the appeal.

7. In the result, the Civil Revision Petition is allowed setting aside the order dated 20.04.2018 passed in I.A.No.5877 of 2017 in A.S.S.R.No.32336 of 2017 on the file of the Chief Judge, City Civil Court, Hyderabad. Consequently, I.A.No.5877 of 2017 is allowed condoning the delay of 30 days in preferring the appeal. The first appellate Court is hereby directed to number the appeal, if it is otherwise in order. There shall be no order as to costs.

8. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 29.06.2018
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