

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.3931 OF 2018

ORDER:

This civil revision petition is filed by the petitioners-defendants, under Section 115 of CPC, assailing the order dated 20.6.2018 passed in I.A.No.4163 of 2016 in O.S. No.676 of 2012 on the file of the Court of Chief Judge, City Civil Court, Hyderabad.

2. Heard the learned counsel for both the parties.

3. The respondent filed O.S. No.676 of 2012 against the petitioners for recovery of an amount of Rs.44,70,000/- with subsequent interest. The trial Court passed the *ex parte* decree on 23.2.2016. The petitioners filed the petition under Order IX Rule 13 of CPC to set aside the *ex parte* decree. The petitioners also filed I.A.No.4163 of 2016 under Section 5 of the Limitation Act to condone the delay in filing the petition under Order IX Rule 13 of CPC. The trial Court, after affording reasonable opportunity to both parties, dismissed the I.A. Hence, the revision.

4. A perusal of the record reveals that the petitioners, even after receipt of the summons in the suit, did not appear before the trial Court. Having no other alternative, the trial Court decreed the suit *ex parte*. The petitioners filed I.A.No.4163 of 2016 to condone the delay of 175 days in filing the petition to set aside *ex parte* decree dated 23.2.2016 in O.S.No.676 of 2012. If the interlocutory application is dismissed, it may not be possible for the petitioners to ventilate their legitimate and legal grievances. 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 the delay in filing the petition under Order IX Rule 13 of CPC. The trial Court dismissed the I.A., on the ground that the petitioners approached the Court after filing of the E.P. by the respondent-Decree Holder. While dealing with the applications of this nature, the approach of the Court shall be pragmatic and not pedantic. The learned counsel for the petitioners submitted that the petitioners will cooperate for early disposal of the suit.

5. Having regard to the facts and circumstances of the case, this Court is of considered view that it is a fit case to allow I.A.No.4163 of 2016 on certain conditions.

6. In the result, the civil revision petition is allowed, setting aside the order dated 20.6.2018 in I.A.No.4163 of 2016. Consequently, I.A.No.4163 of 2016 in O.S.No.676 of 2012 on the file of the Court of the Chief Judge, City Civil Court, Hyderabad is allowed on condition of the petitioners depositing the costs of the suit before the trial Court on or before 16.8.2018, failing which the I.A.No.4163 of 2016 stands dismissed. On such deposit, the respondent is permitted to withdraw the suit costs on furnishing necessary security to the trial Court. The learned Chief Judge, City Civil Court, Hyderabad is hereby directed to dispose of O.S.No.676 of 2012 as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order. Miscellaneous petitions if any pending in this revision petition shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 16.7.2018
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