

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.1635 of 2017

ORDER:

This Civil Revision Petition is filed under Section 115 CPC assailing the order dated 06.01.2017 passed in I.A.No.968 of 2016 in A.S.(SR)No.6046 of 2016 on the file of the Court of Principal District Judge, Ranga Reddy District, at L.B.Nagar.

2. Heard the learned counsel appearing for both the parties.
3. The facts leading to filing of the present revision are as follows:

The petitioner filed I.A.No.968 of 2016 under Section 5 of the Limitation Act to condone the delay of 674 days in preferring the appeal. Respondents filed counter *inter alia* contending that the petitioner has not assigned reasons much less cogent and valid reasons for condoning the delay in preferring the appeal. The appellate Court after affording reasonable opportunity to both parties, dismissed the petition. Hence, the revision.

4. The point that arises for consideration is:

Whether there is any illegality, irregularity or impropriety in the impugned order?

P O I N T:

5. A perusal of the record reveals that the petitioner filed O.S.No.392 of 1994 on the file of the Court of Principal District Judge, Ranga Reddy District, at L.B.Nagar against the

respondents for declaration and consequential relief of recovery of possession of the suit schedule property. The trial Court after full fledged trial, dismissed the suit on 06.11.2013. The petitioner filed I.A.No.968 of 2016 to condone the delay of 674 days in preferring the appeal and the same was dismissed. It is needless to say that a person, who filed an application under Section 5 of the Limitation Act has to assign the reasons much less cogent and valid reasons for non-filing of the appeal within the period of limitation. The fact remains that the petitioner is well aware of the date of judgment of the trial Court.

6. In order to appreciate the contention of the petitioner, this Court carefully perused the affidavit filed in support of the petition. Para – 2 of the affidavit deals with the nature of the suit filed by the petitioner. Paras 3 and 4 of the affidavit relate to merits of the main case. As per the averments made in the affidavit, the petitioner suffered with ill-health from April 2014 to till the date of filing of the petition. At the time of arguments, both counsel submitted that the petitioner is an RMP doctor. The petitioner is the best person to disclose the nature of ailments suffered by him from April 2014 onwards. If really the petitioner was prevented to file appeal within period of limitation due to ill health, what prevented him to produce the medical certificate or case-sheet to substantiate his stand. The nature of the ill-health is also not mentioned by the petitioner in the affidavit. I am fully agreeing with the submissions made by the learned counsel for the petitioner that while deciding the

petitions of this nature the approach of the Court shall be pragmatic but not pedantic. It does not mean that the Court can allow the petitions in a routine manner without applying its mind to the facts of the case. If really, the petitioner is not able to file the application due to ill health for a period of 674 days, what prevented him to examine the doctor from whom he has taken treatment for such a long time? It is the duty of the person, who files an application under Section 5 of the Limitation Act, to explain the reasons for each day's delay much less cogent and valid reasons. As observed earlier, the petitioner has not assigned reasons for non-filing of the appeal within the period of limitation. If the Court allows this type of applications, certainly, it would cause prejudice to the respondents. The trial Court considered the facts of the case on hand in touch stone with Section 5 of the Limitation Act. If this type of petition is allowed, the litigant public may be under the impression that the Courts will condone the delay in a routine manner without proper application of the mind. The petitioner miserably failed to explain the reasons for delay. The possibility of taking the plea of ill-health in order to overcome the laches on part of the petitioner cannot be ruled out completely. The trial Court rightly considered the material available on record and dismissed the petition. There are no grounds much less valid grounds to condone the abnormal delay of 674 days in preferring the appeal. I am fully endorsing with the findings recorded by the Court below. There is no illegality, irregularity or impropriety in the orders of the trial Court, which warrants

interference of this Court. Accordingly, point is answered in favour of the respondents and against the petitioner.

7. In the result, the Civil Revision Petition is dismissed. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.SUNIL CHOWDARY, J

Dt:03.10.2018
Rns

