

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.4444 OF 2018

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 13.11.2017 passed in I.A.No.158 of 2017 in O.S.No.689 of 2015 on the file of the XXIV Additional Chief Judge, City Civil Court at Hyderabad.

2. Heard the learned counsel for the petitioner.

3. A perusal of the record reveals that the petitioner filed O.S.No.689 of 2015 on the file of the XXIV Additional Chief Judge, City Civil Court at Hyderabad, against the respondents for recovery of suit schedule property. The trial Court decreed the suit on 19.02.2016. The first respondent filed I.A.No.158 of 2017, under Section 5 of the Limitation Act, to condone the delay of 330 days in filing a petition, under Order IX Rule 13 C.P.C., to set aside the *ex parte* order. The trial Court allowed the petition. Hence, the revision.

4. Learned counsel for the petitioner submitted that the petition filed by the first respondent under Order IX Rule 13 C.P.C. is pending.

5. The predominant contention of the learned counsel for the petitioner is that the trial Court has not passed a speaking order. In order to appreciate the contention of the learned counsel for the petitioner, it is not out of place to extract hereunder the order passed by the trial Court:

“Heard, perused the record. Petition is allowed in the interest of justice.”

6. A party to the proceeding, who filed a petition under Section 5 of the Limitation Act, has to explain the reasons much less cogent and valid reasons for non-filing of the petition within a period of limitation. If the Court satisfies with the reasons assigned by the petitioner, it can allow the petition. As rightly pointed out by the learned counsel for the petitioner, the Court has not given reasons much less cogent and valid reasons while allowing the petition. It is needless to say that the Court has to pass a speaking order while disposing of the interlocutory application. If the order of the trial Court is allowed to stand, certainly it would amount to miscarriage of justice.

7. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that it is a fit case to remand the matter to the trial Court.

8. In the result, the Civil Revision Petition is allowed setting aside the order dated 13.11.2017 passed in I.A.No.158 of 2017 in O.S.No.689 of 2015 on the file of the XXIV Additional Chief Judge, City Civil Court at Hyderabad and remanding the matter to the trial Court. The trial Court is hereby directed to dispose of I.A.No.158 of 2017 on merits by way of a speaking order. There shall be no order as to costs.

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

T.SUNIL CHOWDARY, J

Date: 03.08.2018
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