

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.4456 OF 2018

ORDER :

This Civil Revision Petition is filed against order dated 23.07.2018 in I.A.No.718 of 2018 in A.S.No.11 of 2018, wherein and whereby the application filed under Section 5 of Limitation Act r/w Section 151 CPC to condone the delay of 02 days in filing the appeal against judgment and decree in OS No.445 of 2008, is dismissed.

Learned counsel for the petitioner submits that initially appeal filed against judgment and decree in OS No.445 of 2008 is numbered as AS No.11 of 2018. He submits that subsequently, after noticing that there is delay of two days in filing the said appeal, that too, after numbering the same, the application filed for condoning the delay in IA No.718 of 2018 is dismissed. He submits that the petitioner mentioned reasons for the delay of two days in filing the appeal.

On the other hand, Sri P.Durga Prasad, learned counsel for the respondents submits that in fact suit proceedings are dragged on by the petitioner and ultimately the same is decreed and that there is no proper explanation for the delay, as such, the Court below has rightly dismissed the application. He submits that there is no proper explanation or sufficient reason for the delay occurred in filing the said application, as such, no interference is called for. As there are no merits in the appeal, petitioner did not take any interest in filing appeal in time.

In this case, it is to be seen that the suit is filed for declaration of title and recovery of immovable property. Initially, the Court below itself numbered the appeal as AS. No.11 of 2018 without reference to condone delay petition but dismissed application for condone delay later after noticing that there is two days delay. Substantial property rights are involved, the Court below ought to have allowed the application on certain terms, as some explanation is given as delay was only two days.

In view of the same, the impugned order dated 23.07.2018 in IA No.718 of 2017 in AS No.11 of 2018 is set aside and the delay of 2 days in filing the application, is condoned on payment of costs of Rs.5,000/- to be paid to the other side counsel within four weeks from the date of receipt of a copy of this order. The Court below is directed to dispose of the appeal filed by the petitioner in accordance with law, as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

Accordingly, this Civil Revision Petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

A.RAJASHEKER REDDY, J

12.09.2018
kvs

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