

SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.5227 OF 2010

JUDGMENT:

Heard Sri Md. Abdul Mateen Qureshi, learned counsel, for Sri Abdul Muqeeth Qureshi, learned counsel for the revision petitioner.

2. No representation for the respondents.

3. The present Civil Revision Petition, filed under Section 115 of Civil Procedure Code, 1908 (for short, 'C.P.C.'), is directed against the order dated 12.04.2010 in I.A. No.2721 of 2009 in A.S. (SR) No.8150 of 2009, whereby and whereunder the learned Chief Judge, City Civil Court, Hyderabad, refusing to condone the delay of 29 days in preferring the First Appeal, rejected the request. Aggrieved over the same, the present Civil Revision Petition is filed.

4. Learned counsel for the petitioner would submit that sufficient cause is occurring in paragraph-3 of the affidavit, but, despite the same, the Court below did not properly appreciate it. Learned counsel has also read the contents of paragraph-3 of the affidavit annexed to the application filed under Section 5 of the Limitation Act. It reads thus:

“3. I submit that due to some arose difficult in my life so I could not file Appeal within the period. This is not wilful nor wanton only above said reasons mentioned supra.

I, therefore, prayed that this Hon'ble Court may be pleased to condone the delay of (29) days for filing within the time of this Appeal before this Hon'ble Court in the interest of justice and pass such other order or orders

as this Hon'ble Court deems fit and proper in the circumstances of the case.”

5. According to the learned counsel, the words “some arose difficult in my life” would itself constitute sufficient cause, which the Court did not properly comprehend.

6. The aforesaid extracted words from paragraph-3 of the affidavit do not connote any meaning. In fact, the details as to the difficulty which the revision petitioner felt are not stated in order to assess whether there exists sufficient cause or not. On that premise, the Court below has refused to accede to the request.

7. The delay sought to be condoned was only 29 days. The articulation of the above words stand as glaring example that an half-baked counsel in the field appears to have articulated the affidavit. It is well settled that in a petition to condone the delay under Section 5, approach of the Court should be liberal.

8. When kept in view, the guidelines laid down by the Hon'ble Supreme Court in **Collector, Land Acquisition, Anantnag and another v. Mst. Katiji and others**¹, liberal approach is a guiding factor to decide the application under Section 5 of the Limitation Act where the delay in preferring the Appeal is not inordinate, the Court can grant the relief of condonation of delay of 29 days.

¹ (1987) 2 SCC 107

9. In the present case, the delay is not inordinate. Hence, it cannot be said that the petitioner could not be able to show cause, though, the details are wanting. The present Civil Revision petition is, therefore, allowed setting aside the order under challenge now. Consequently, I.A. No.2721 of 2009 stands allowed. The Appeal is directed to be registered if otherwise in order.

10. Accordingly, the present Civil Revision Petition is allowed. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions if any pending in the Civil Revision Petition shall stand closed.

Dt. 25.06.2018
gbs

A circular green seal of the High Court of Judicature at Hyderabad, State of Andhra Pradesh. The outer ring contains the text 'HIGH COURT OF JUDICATURE AT HYDERABAD' and 'FOR THE STATE OF TELANGANA AND STATE OF ANDHRA PRADESH'. The inner circle features a central emblem with a lamp and a book, surrounded by the text 'JUDICIAL DEPARTMENT'. At the bottom, the motto 'सत्यमेव जयते' is inscribed in Devanagari script.

A.SHANKAR NARAYANA,J