

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.6596 of 2017

JUDGMENT:

This Civil Revision Petition is filed under Section 115 CPC assailing the order dated 03.08.2017 passed in I.A.No.7298 of 2016 in A.S.(SR)No.20891 of 2016 on the file of the Court of Chief Judge, City Civil Court, Hyderabad.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the petitioners herein have filed O.S.No.1109 of 2014 on the file of the court of XVIII Senior Civil Judge, City Civil Court, Hyderabad, against the respondents for partition of the suit schedule property. After full fledged trial, the trial Court dismissed the suit on merits. The petitioners filed an appeal along with delay petition. The appellate Court dismissed the delay petition. Hence, the revision.

4. The petitioners presented the appeal before the appellate Court along with I.A.No.7298 of 2016 to condone the delay of 28 days in preferring appeal. As rightly pointed out by the learned counsel for the respondents, the petitioners are educated persons. A perusal of the affidavit reveals that due to illness of the second petitioner, who filed affidavit on behalf of all the petitioners, they could not file the appeal within the stipulated time.

5. While disposing the applications of this nature, the approach of the Court shall be pragmatic but not pedantic. If the petition is dismissed, it may not be possible for the petitioners to ventilate their legitimate grievances. Even if the petition is allowed, the same may not cause any prejudice to the rights of the respondents. Taking into consideration the facts and circumstances of the case, this Court is of a considered view that it is a fit case to allow the revision on some conditions.

6. In the result, the Civil Revision Petition is allowed on a condition of petitioners paying an amount of Rs.5,000/- (Rupees five thousand only) to the respondents 1 and 2 on or before 23.08.2018. The trial Court is hereby directed to number the appeal after producing the receipt of payment of costs by the petitioners. As a sequel, Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

T.SUNIL CHOWDARY, J

23rd July 2018

Rns

