

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.7323 of 2017

ORDER :

Heard both sides. Perused the grounds of revision and the impugned order of the lower Court.

2. Undisputedly, the approach to be adopted in delay condonation applications either under Order XLI Rule 3-A C.P.C or Section 5 of the Limitation Act, as the case may be, is pragmatic, more particularly for the reason that nobody will intentionally and deliberately wait till expiry of the period to avail the statutory right, but for some reason or other therefrom only to consider existence of sufficient cause to condone the delay or not; though length of time is neither criteria nor short period of time in considering the sufficient cause existing or not.

3. Having regard to the above and from perusal of the impugned order with supporting affidavit in passing the order, once there is a ground stated regarding the delay occurred as bonafide, the dismissal of the application by the lower Court is unsustainable.

4. Accordingly and in the result, the civil revision petition is allowed, setting aside the impugned order of the trial Court by condoning the delay of 36 days in filing the un-numbered appeal subject to costs of Rs.1,000/- payable by the appellant/defendant to the respondent/plaintiff, since paid allowed. Needless to say, the respondent to the appeal can seek for early disposal of the appeal because of the long pending matters since the date of filing of the suit,

which is no doubt subject to other priorities before the appellate Court.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

4th January 2018

mar

