

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION NO.7226 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India, challenging the order, dated 12.09.2017 in I.A.No.1481 of 2013 in O.S.No.143 of 2005 on the file of the Principal Senior Civil Judge, Kadapa.

2. Heard both the counsel.

3. One Pucha Obul Reddy filed the suit O.S.No.143 of 2005 against some of the respondents for declaration. During the pendency of the suit, the said Pucha Obul Reddy died. Sons of Pucha Obul Reddy were brought on record as defendants 3 and 4. Wife and another son of the said Pucha Obul Reddy filed the above interlocutory application to condone the delay of 133 days in filing L.R. application.

4. During the course of enquiry, 2nd petitioner was examined as P.W.1 and got marked Exs.A1 and A2. No oral or documentary evidence was adduced on behalf of the respondents.

5. The trial Court, after considering both oral and documentary evidence, dismissed the application. Hence, this revision.

6. At the time of arguments, both counsel with one voice submitted that the petitioners were brought on record as legal representatives of the said Pucha Obul Reddy in O.S.No.222 of 2005.

7. A perusal of the record reveals that the 2nd petitioner was suffering with ailment; therefore, the petitioners could not file the application within the period of

limitation. The petitioners have assigned reasons, much less cogent and valid reasons to condone the delay. Even if the petition is allowed, the same would not cause any prejudice to the respondents. It is not the case of the respondents that the petitioners are not wife and son of the said Pucha Obul Reddy. The trial Court, without taking into consideration the legal consequences, dismissed the application. While disposing of the applications of this nature, the approach of the Court shall be pragmatic but not pedantic. The Court ought not to have dismissed the application merely on technicalities. Finding of the trial Court that the petitioners have not properly calculated the delay is not sustainable. Both counsel submitted that the delay in filing the application is only 128 days. If the order of the trial Court is allowed to stand, certainly it would amount to miscarriage of justice.

8. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that it is a fit case to condone the delay of 133 days in setting aside the abatement to bring the petitioners as legal representatives on record.

9. Accordingly, the Civil Revision Petition is allowed. No order as to costs. Miscellaneous petitions, if any pending, in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

DATED: 23-03-2018.

Hsd