

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.1262 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed aggrieved by the order, dated 25.02.2019, passed in I.A.No.6786 of 2018 in A.S.S.R.No.27258 of 2018 by the Chief Judge, City Civil Court, Hyderabad, wherein the petition filed under Section 5 of the Limitation Act, 1963, to condone the delay of 154 days in preferring the appeal in A.S.S.R.No.27258 of 2018 on the ground that the petitioner is suffering from age related ailments and acute spondylities, was dismissed.

2. Heard the learned counsel for the revision petitioners, learned counsel for the respondent and perused the record.

3. Learned counsel for the revision petitioners would submit that sufficient cause has been stated in the affidavit filed in support of subject IA, but, however, the Court below did not consider the same and dismissed the application. It is stated that the dispute is between the mother and son. It is further stated that the order passed by the Court below is erroneous and ultimately, prayed to set aside the same and allow I.A.No.6786 of 2018 as prayed for.

4. On the other hand, learned counsel for the respondent would contend that there is no genuine reason in the affidavit filed in support of subject IA. He further stated that the Court below is justified in passing the impugned order and hence, he prays to dismiss the Civil Revision Petition.

5. As seen from the record, the dispute is between the mother and son. The suit in O.S.No.2311 of 2010 filed by the petitioners for perpetual injunction was dismissed by the learned XIX Junior Civil Judge, City Civil Court, Hyderabad, vide judgment, dated 27.02.2018, and that led to filing of appeal in A.S.S.R.No.27258 of 2018.

6. In the affidavit filed in support of subject IA, the petitioner stated that she is suffering from old age ailments and she was advised to take bed rest, and therefore, she could not file the appeal in time. Since the delay is only 154 days, the Court below ought not have gone into technicalities and insisted for medical record of the petitioner. Substantial questions emerging in the appeal are required to be determined. Hence, the impugned order is liable to be dismissed.

7. Accordingly, the Civil Revision Petition is allowed setting aside the order, dated 25.02.2019, passed in I.A.No.6786 of 2018 in A.S.S.R.No.27258 of 2018. Consequently, I.A.No.6786 of 2018 is allowed condoning the delay of 154 days in filing A.S.S.R.No.27258 of 2018.

Miscellaneous petitions, if any, pending in this revision petition shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

15th November, 2019
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Date:15.11.2019

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