

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.1161 of 2019

ORDER :

Heard the learned counsel for petitioner and learned counsel for respondent.

2. This Revision is filed challenging the order dt.28-03-2019 in I.A.No.148 of 2017 in R.C.A.No.210 of 2015 of the Additional Chief Judge, City Small Causes Court, Hyderabad refusing to restore the R.C.A., which was dismissed on 06-06-2017 on the ground that there was no representation on behalf of the petitioner, who was the appellant in the said appeal.

3. The reason assigned for non-appearance of the counsel on 06-06-2017 is that the Junior counsel on record felt giddiness on account of sun stroke on that day and before he could contact another counsel and make alternative arrangements, the R.C.A. was dismissed for default.

4. The Court below negated the said contention on the ground that petitioner did not file medical prescription of the Doctor or medical bill under which he purchased medicines, and also did not file any document in support of alleged illness on the date when the Junior counsel fell sick.

5. This is clearly perverse because application for restoration of appeal was filed on 14-06-2017, 8 days after the dismissal of the said R.C.A.No.210 of 2015 by the Court below, and when the counsel states that he suffered a sun stroke and files an application with such short delay, the Court below cannot deny the party, who engaged the counsel, an opportunity to contest the appeal on merits by simply dismissing it on such a frivolous ground. Valuable rights of the parties are involved and when the delay is not substantial, the Court below ought to adopt a more liberal approach and decide the case on merits instead of dismissing it for default.

6. Accordingly, the impugned order is set aside; I.A.No.148 of 2017 in R.C.A.No.210 of 2015 is allowed; and the Court below shall decide the said appeal by 30-06-2019 after hearing both sides.

7. The Civil Revision Petition is allowed accordingly. No costs.

8. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 01-05-2019

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