

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.1227 of 2019

ORDER:

This Revision is filed under Section 115 CPC challenging the order dt.23.04.2019 of the Chief Judge, City Civil Court, Hyderabad dismissing I.A.No.988 of 2019 in ASSR.No.4719 of 2019.

2. Petitioner herein is the sole defendant in O.S.No.218 of 2017 on the file of the XXII Junior Civil Judge, City Civil Court, Hyderabad.

3. The said suit was filed for recovery of possession of the suit schedule property from the petitioner and for mesne profits.

4. Petitioner contested the suit but a decree was passed therein on 17.12.2018 decreeing the suit.

5. Challenging the same, petitioner filed A.S.(SR).No.4719 of 2019 with a delay of 30 days and filed I.A.No.988 of 2019 to condone the said period of delay in filing the appeal.

6. In the affidavit filed in support of the said application, petitioner stated that her mother aged about 75 years had been continuously bed ridden due to paralysis and other chronic diseases and was in a serious condition and that because there was no other person to look after her mother she could not contact her advocate in time to prefer appeal in time.

7. This was opposed by the respondents who contended that the plea of the petitioner is a false plea and is intended only to stall the execution proceedings already initiated by the respondents in EP.No.145 of 2019. It is contended that the petitioner did not inform the respondents that her mother was also staying with her and the illness of the petitioners' mother had nothing to do with the appeal.

8. The Court below dismissed the I.A.No.988 of 2019 by order and 23.04.2019 merely stating that petitioner filed the I.A., to condone the delay, only to drag on the proceedings and the reasons stated by the petitioner for condoning the delay are not satisfactory and convincing.

9. Challenging the same, this Revision is filed.

10. Counsel for the petitioner contended that when the appeal was filed with such a short period of delay of 30 days, the Court below without considering the situation leading to the delay, perversely dismissed the delay condonation application resulting in dismissal of the appeal.

11. Counsel for the respondents supported the order passed by the Court below and contended that the alleged illness of the mother of the petitioner cannot be a valid ground to condone the delay of 30 days in filing the appeal.

12. I have noted the contentions of both sides.

13. Merely because no material was filed by the petitioner in support of her claim that her mother was unwell, it cannot be said that the short period of delay of 30 days in filing the appeal cannot be condoned, particularly, when the suit is for eviction and the petitioner and her family would be dispossessed if the appeal is not entertained. The Court below ought to have taken more sympathetic view in the matter considering the fact that the petitioner pleaded that it was her mother who was unwell and also considering the very short period of delay of 30 days. Therefore, the impugned order cannot be sustained.

14. Accordingly, this Civil Revision Petition is allowed; the impugned order dt.23.04.2019 of the Chief Judge, City Civil Court, Hyderabad in I.A.No.988 of 2019 in ASSR.No.4719 of 2019 is set aside; and the said I.A., is allowed. The Court below is directed to number the appeal and consider the stay application, if any, filed in the said appeal. No order as to costs.

15. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

04th June, 2019.

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