

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.1622 of 2019

ORDER:

This Civil Revision Petition, under Section 115 of the Code of Civil Procedure, 1908, is filed by the petitioner/plaintiff, aggrieved by the order, dated 24.04.2019, passed in I.A.No.5980 of 2018 in A.S.S.R.No.26694 of 2018, by the Chief Judge, City Civil Court, Hyderabad, whereby, the petition filed by the petitioner/plaintiff under Section 5 of the Limitation Act, 1963, to condone the delay of 27 days in filing the appeal before the Court below, was dismissed, holding that no necessary steps were taken by the petitioner/plaintiff to file the appeal in time and that no medical record was filed to substantiate the averments made in the subject interlocutory application.

2. Heard the learned counsel for both sides and perused the record.

3. The learned counsel for the petitioner/plaintiff would contend that though sufficient cause was shown for condoning the delay of 27 days in filing the appeal before the Court below, the Court below erroneously dismissed the subject interlocutory application and ultimately prayed to allow the subject interlocutory application by condoning the delay of 27 days in filing the appeal.

4. On the other hand, the learned counsel for the respondents/defendants would contend that no valid grounds were shown by the petitioner/plaintiff to condone the delay of 27 days in filing the appeal. The Court below rightly dismissed the subject

interlocutory application. There is nothing to interfere with the order under challenge and ultimately prayed to dismiss the Civil Revision Petition.

5. As seen from the material placed on record, the subject interlocutory application filed to condone the delay of 27 days in filing the appeal before the Court below was dismissed by the Court below on the score that the medical record to substantiate the averment that the petitioner/plaintiff was suffering with several ailments was not filed. Admittedly, the delay is not abnormal. In the matter of condoning the delay, liberal approach is desirable to advance substantial justice to the parties, unless the cause of delay is tainted with malafides. The reasons assigned for delay in the affidavit filed in support of the subject interlocutory application are sustainable. The impugned order is unsustainable and is liable to be set aside.

6. Accordingly, the Civil Revision Petition is allowed by setting aside the order under challenge. Consequently, I.A.No.5980 of 2018 in A.S.S.R.No.26694 of 2018 on the file of the Chief Judge, City Civil Court, Hyderabad, stands allowed by condoning the delay of 27 days in filing the appeal. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

29th October, 2019
Bvv