

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.1978 of 2019

ORDER:

This Civil Revision Petition, under Section 115 of Code of Civil Procedure, is filed by the petitioners/plaintiffs, challenging the order, dated 10.07.2019, passed in I.A.No.796 of 2019 in unregistered Appeal Suit, by the Principal District Judge, Warangal, whereby, the petition filed by the petitioners/plaintiffs under Section 5 of the Limitation Act, seeking to condone the delay of 21 days in filing the appeal, was dismissed.

2. Heard the learned counsel for the petitioners/plaintiffs, the learned Government Pleader for the 1st respondent and perused the record.

3. The learned counsel for the petitioners/plaintiffs would contend that the impugned order passed by the Court below is contrary to law. The delay in filing the appeal is not deliberate and it was caused due to filing of I.A.No.241 of 2019 before the VII Addl. Junior Civil Judge, Warangal, seeking to review the Judgment and decree in O.S.No.1033 of 2018 dated 04.01.2019. The said review petition was dismissed vide order, dated 05.03.2019. Thereafter, the petitioners/plaintiffs preferred the Appeal Suit along with the subject Interlocutory Application. If the delay is not condoned, the petitioners/plaintiffs will suffer irreparable loss and ultimately prayed to

allow the Civil Revision Petition by setting aside the order under challenge.

4. On the other hand, learned Government Pleader for the respondent No.1 would contend that the Court below is justified in passing the impugned order. There is no perversity or illegality in the order under challenge and ultimately prayed to dismiss the Civil Revision Petition.

5. Admittedly, the petitioners/plaintiffs filed O.S.No.1033 of 2018 before the VII Addl. Junior Civil Judge, Warangal, seeking to declare that they are the legal heirs and successors of their deceased daughter-Smt.Manugonda Saritha. The said suit was dismissed on 04.01.2019. Subsequently, the petitioners/plaintiffs filed I.A.No.241 of 2019 seeking to review the aforesaid Judgment and decree and the said Interlocutory Application was also dismissed vide order dated 05.03.2019. Thereafter, the petitioners/plaintiffs filed the Appeal Suit before the Principal District Judge, Warangal, along with subject I.A.No.796 of 2019 seeking to condone the delay of 21 days in filing appeal. The said I.A.No.796 of 2019 was dismissed by the Court below vide impugned order dated 10.07.2019.

6. As seen from the affidavit filed in support of the subject Interlocutory Application, it appears that the delay is not deliberate but it was occurred due to pendency of their review petition. Under these circumstances, this Court feels that the

petitioners/plaintiffs will be put to irreparable loss if the delay is not condoned. The appellate Court below is required to dispose of the appeal on merits in accordance with the procedure established under law.

6. Under these circumstances, the Civil Revision Petition is allowed and the order, dated 10.07.2019, passed in I.A.No.796 of 2019 in unregistered Appeal Suit, by the Principal District Judge, Warangal is set aside. Consequently, I.A.No.796 of 2019 is allowed condoning the delay of 21 days in filing the Appeal Suit. The trial Court is directed to number/register the Appeal, if it is otherwise in order. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand dismissed.

Dr. SHAMEEM AKTHER, J

26th November, 2019
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