

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.2400 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/defendant, challenging the order, dated 02.08.2019, passed in I.A.No.869 of 2018 in O.S.No.1451 of 2005, by the IX Additional Senior Civil Judge, L.B.Nagar, Ranga Reddy District, whereby, the petition filed by the respondent/plaintiff under Section 5 of the Limitation Act, 1963, to condone the delay of 175 days in filing the restoration application for restoration of the Original Suit, was allowed.

2. Heard the learned counsel for the revision petitioner/defendant and perused the record.

3. It has been contended that the respondent/plaintiff did not make proper pleadings in the affidavit filed in support of the restoration application to condone the delay of 175 days in filing the restoration application for restoration of the Original Suit. However, the Court below was pleased to allow the subject interlocutory application and ultimately prayed to set aside the order under challenge.

4. It is pertinent to state that in O.S.No.1451 of 2005, substantial questions are required to be determined. It is always better to decide a *lis* between the parties on merits, rather than on technicalities. The respondent/plaintiff pleaded that due to change of the Court, the respondent/plaintiff could not conduct the trial in the suit and as such, the suit was dismissed for default. The Court below

examined the matter in detail and ultimately condoned the delay, by imposing costs on the respondent/plaintiff. Under these circumstances, it is not appropriate to vary the order under challenge. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

5. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

21st October, 2019
Bvv

Dr. SHAMEEM AKTHER, J

