

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

CIVIL REVISION PETITION NO.4066 OF 2018

ORDER:

This Revision is filed under Section 115 of the Code of Civil Procedure, 1908 (CPC), challenging the docket order dated 28.03.2018 in E.A.No.82 of 2017 in E.P.No.65 of 2015 on the file of the Senior Civil Judge, Miryalaguda, Nalgonda District, condoning delay of three days in filing the restoration petition, which was dismissed for default on 22.03.2017, by imposing costs of Rs.300/-.

Though counsel for the petitioner sought to contend that the said delay ought not to have been condoned on the ground that Section 5 of the Limitation Act, 1963, does not apply, the application before the Court below ought to be treated as an application under Order XXI Rule 106(3) CPC, and merely because wrong provision of law is quoted, the application could not have been dismissed. That apart, the delay in seeking restoration is only three days for which costs have been granted to the petitioner.

Therefore, I do not see any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Section 115 CPC.

The Revision fails and is, accordingly, dismissed.

There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand dismissed.

(M.S.RAMACHANDRA RAO, J)

30th July 2019
RRB