



A.No.3784 of 2023
in
CS.No.110 of 2022

R.N.MANJULA, J.

The application has been filed to set aside the order of dismissal dated 13.02.2023 and restore the suit.

2. The respondents have filed a counter affidavit.

3. Heard both sides learned counsel, and perused the materials available on record.

4. The learned counsel for the applicants submitted that the dismissal due to non prosecution is due to the default on the part of the counsel and for which the party should not be affected. It is further submitted that the application is filed to condone the delay of 27 days in filing this application has already been condoned and hence, this application should also be allowed.

5. The learned counsel for the respondents submitted that the applicants ought to have been vigilant in following up the case. It is further submitted that the applicant is just a name lender for the suit; the reasons stated by the applicants for setting aside the order of dismissal are not acceptable and hence the application should be dismissed.

6. The records would show that the application filed by the applicant



R.N.MANJULA, J

jrs

to condone the delay in filing this application has already been allowed on 10.07.2023. The applicants have stated that they were not properly informed by their counsel about the stage of the proceedings, and that caused the dismissal. Though the plaintiffs ought to have been vigilant in following the proceedings, if they are not properly apprised by their respective counsels, they become helpless.

7. Taking into consideration of the said fact and also taking into consideration the delay already, I feel that in the interest of justice, one opportunity should be given to the applicants to contest the suit on merit; hence, this application is allowed.

8. The suit was at the stage of carrying out the amendment, which has already been allowed. Since there is a delay in carrying out the amendment, the learned counsel for the plaintiff has submitted that she would take out an application to condone the delay in carrying out the amendment and continue the proceedings.

9. List the matter on 29.08.2023.

18.08.2023

jrs

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