

THE HONOURABLE SRI JUSTICE A.SANTHOSH REDDY

C.R.P.No.3772 OF 2017

ORDER:

This civil revision petition is filed under Section 115 of the Code of Civil Procedure, 1908 (for short 'CPC') against the order dated 29.06.2017 passed in I.A.S.R.No.11482 of 2017 in I.A.No.653 of 2017 in A.S.S.R.No.26362 of 2016 by the learned Chief Judge, City Civil Court, Hyderabad.

2. Heard learned counsel for the petitioner. None represented the respondents. Perused the record.

3. Petitioner-plaintiff filed the suit in O.S.No.546 of 2013 for recovery of money against the respondents. The said suit was dismissed by the learned V Senior Civil Judge, City Civil Court, Hyderabad, vide judgment dated 20.09.2016. Aggrieved by the same, the revision petitioner herein preferred appeal under A.S.S.R.No.26362 of 2016 along with an application in I.A.No.653 of 2017 to condone the delay of 63 days in preferring the appeal. Learned Senior Civil Judge, ordered the same on payment of Rs.300/-. On 17.04.2017, when the revision

petitioner failed to deposit the costs, the said petition was dismissed. Challenging the said orders, the present CRP is filed.

4. Petitioner filed the suit seeking recovery of a sum of Rs.4,25,000/- against the respondents in O.S.No.546 of 2013. The said suit was dismissed on merits vide judgment and decree dated 20.09.2016. The revision petitioner filed appeal before the appellate Court with an application to condone the delay of 63 days in preferring the appeal. The said application in I.A.No.653 of 2017 was allowed on payment of costs of Rs.300/- and as the petitioner failed to deposit the costs, the application was dismissed. In the affidavit filed in support of the condone delay application that the petitioner stated that his uncle expired on 07.04.2017 and he was away from Hyderabad and went to Bhusawal, Maharashtra to attend the 12th and 13th day ceremonies of his uncle and thereby the costs were not deposited on 25.04.2017 and thus there was a delay of seven (07) days in depositing the costs, as per the orders of the Chief Judge, City Civil Court, Hyderabad.

5. After considering the facts and circumstances, since the delay application in I.A.No.653 of 2017 was allowed and costs of Rs.300/-

were deposited by the revision petitioner before the District Legal Services Authority, City Civil Court, Hyderabad, dated 17.04.2017, it would be appropriate in the interest of justice that the orders in I.A.No.653 of 2017 have to be set aside to give an opportunity to the petitioner to prefer an appeal. Hence, the impugned order is liable to set aside.

6. Accordingly, the civil revision petition is allowed. The impugned order dated 17.04.2017 in I.A.No.653 of 2017 in A.S.S.R.No.26362 of 2016 is hereby set aside. Consequently, I.A.No.653 of 2017 is allowed.

7. As a sequel thereto, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.SANTHOSH REDDY, J

Date: 20.01.2023
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