

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION NO.5596 of 2015

ORDER:

This Civil Revision Petition is filed by the Petitioner/defendant aggrieved by the Order dt. 07.04.2015 in I.A.No.470 of 2014 in O.S.No. 482 of 2012 passed by Addl. Senior Civil Judge's Court, Srikakulam, whereby and whereunder the learned trial Court dismissed the petition filed by the petitioner/defendant under Section 5 of Limitation Act to condone the delay of 460 days in filing the petition to set aside the *ex parte* decree.

2. In spite of notice being served on respondent, there is no representation on his behalf.

3. Heard arguments of learned Counsel for petitioner.

4. The submission of learned counsel for petitioner/defendant is that the respondent/plaintiff filed a suit for recovery of Rs.2,34,500/- on the strength of a promissory note alleged to have been executed by the petitioner/defendant and the petitioner received summons and the petitioner is working as Principal, PSWR School (Girls), Namigudem Village and Mandal, Nalgonda District and all the way she went to Srikakulam and engaged a counsel to file Vakalat and also Written Statement and came back to Namigudem village and thereafter due to heavy work she could not contact her counsel and later she came to know that she was set *ex parte* and an *ex parte* decree was passed and hence she filed a petition to set aside the *ex parte* decree along with delay condonation petition and there was no willful delay on the part of the petitioner, but, the trial Court on the observation that the petitioner is educated and principal of the Government School did not evince any interest after receiving summons dismissed the petition. Learned counsel submitted that the petitioner has a strong case to succeed in the suit and if an opportunity is not accorded to her to contest the matter, her valuable rights will be jeopardized. Learned counsel further submitted that to show bonafides, the petitioner is ready to deposit a part of the suit amount if directed by the Hon'ble Court. Learned counsel, thus,

prayed to allow the petition.

5. Having regard to the above submission of the learned counsel for petitioner, this petition is allowed to afford an opportunity to the petitioner to contest the matter on merits.

6. Accordingly, this C.R.P is allowed and the impugned Order dt.7.4.2015 in I.A.No.470 of 2014 in O.S.No.482 of 2012 on the file of Addl. Senior Civil Judge, Srikakulam, is set aside and the delay of 460 days in filing the petition to set aside the *ex parte* decree is condoned on condition of the petitioner/defendant depositing one half of the suit amount before the trial Court within six weeks from the date of this Order, failing which, this Order shall be deemed cancelled.

As a sequel, miscellaneous petitions, if any, pending shall stand closed.

U.DURGA PRASAD RAO,J

Dt: 23-12-2015

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THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No. 5596 of 2015

Dt. 23.12.2015

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