

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.2242 of 2012

ORDER:

-

The present application is filed under Section 115 C.P.C. questioning the order dated 26-03-2012 passed in I.A.No.1711 of 2011 in O.S.No.117 of 2010 on the file of Junior Civil Judge, Kurnool wherein request to condone the delay of (30) days in filing the application to set aside the exparte decree dated 13-07-2011 was dismissed.

The facts in issue are as under:

The respondent herein filed O.S.No.117 of 2010 for recovery of money on the basis of a promissory note dated 11-07-2007. He could not file his written statement within the stipulated time. As such, the trial Court set him exparte and an exparte decree was passed on 13-07-2011. However, the respondent filed an application is filed under Section 5 of Limitation Act and also under order 9 Rule 13 C.P.C. seeking condonation of delay of (30) days in filing the application to set aside the exparte decree along with another petition to set aside the said exparte order, which was rejected. Aggrieved by the same, the present Revision is filed.

Learned counsel for the petitioner submits that the delay in filing the application is neither willful nor wanton, but only due to lack of communication from his advocate. He further submits that if the delay is not condoned, irreparable loss will be caused to the petitioner.

Learned counsel for the respondent opposed the petition, but, however submits a direction may be given for an early disposal of the suit.

Having regard to the explanation given in the affidavit filed in support of the petition and taking into consideration the submissions

made by the counsel for the respondent, the order dated 26-03-2012 in I.A.No.1711 of 2011 is set aside and the delay of (30) days in filing the petition to set aside the exparte decree is condoned.

Accordingly, the Civil Revision Petition is allowed with a direction to the trial Court to dispose of the suit in O.S.No.117 of 2010 within three months from the date of receipt of copy of this order.

As a sequel thereto, Miscellaneous Petitions, if any, pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

06-02-2015

nvl