

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.5231 of 2015

ORDER :

This civil revision petition is filed under Section 115 of C.P.C., by the plaintiff in the suit in O.S.No.570 of 2014, on the file of IX-Additional Chief Judge, City Civil Court, Hyderabad, aggrieved by order, dated 13.10.2015, passed in I.A.No.1241 of 2015.

By the aforesaid order, the trial Court has allowed the petition filed by the respondent/defendant under Section 5 of the Limitation Act, by condoning the delay of 343 days in filing the petition to set aside the exparte decree.

In this civil revision petition, it is contended by the learned counsel for petitioner that even though there is no explanation explaining the day-to-day delay, the Court below has allowed the application filed by the defendant under Section 5 of the Limitation Act by condoning the delay of 343 days.

Having heard learned counsel for petitioner, I have also perused the impugned order and the affidavit filed in support of I.A.No.1241 of 2015 and the counter affidavit filed therein. In the affidavit filed in support of the application, it is stated by the respondent/defendant that for his appearance in the suit, case was posted to 10.09.2014, but as he fell sick and was completely bed-ridden due to jaundice, he could not instruct his counsel to file written statement to defend the case.

Contesting the aforesaid application, the petitioner herein has filed counter affidavit. A perusal of the counter affidavit makes it clear that the petitioner herein did not deny the allegation of defendant that he suffered with jaundice and was bedridden. In the absence of such denial in the counter affidavit, it cannot be said that the delay was condoned without assigning valid reasons. Having regard to the

reasons stated in the affidavit filed in support of I.A.No.1241 of 2015, this Court is of the view that sufficient reasons are given for condoning the delay in filing the application for setting aside the exparte decree.

For the aforesaid reasons, I do not find any merit in this revision petition, so as to interfere with the impugned order. The revision petition is accordingly dismissed. No costs.

Pending miscellaneous applications, if any, shall stand closed.

R. SUBHASH REDDY, J

21st December 2015

ajr