

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.3447 of 2015

ORDER:

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This Civil Revision Petition is filed against the order dated 10-07-2015 in I.A.No.148 of 2012 in O.S.No.23 of 2011 on the file of Senior Civil Judge, Allagadda, Kurnool District, wherein, the Court below has dismissed the application filed under Section 5 of Limitation Act for condoning the delay of (12) days in filing the petition to set aside the exparte decree passed against him on 23-01-2012.

The Court below has dismissed the application on the ground that no material is filed in support of the ill-ness during relevant period. Though, it is pleaded in the application, the Court below has not believed the explanation offered by the petitioner for condoning the delay.

Learned counsel for the petitioner submits that though the delay is only (12) days, the Court below has not considered the same.

Learned counsel for the respondent submits that the petitioner was set exparte on 18-04-2011, after that the said order was set aside by granting time. In spite of that written statement was not filed. Ultimately, exparte decree was passed.

The affidavit filed by the petitioner is vague and the day to delay is not explained at all. A perusal of the order passed by the Court below shows that the petitioner has not filed any material in support of his ill-ness. As such, it cannot be said that the order of the Court below is erroneous. However, as the delay is only (12) days, in view of the facts and circumstances, the same can be condoned by imposing

some costs and part of the suit amount.

Accordingly, the Civil Revision Petition is allowed. The impugned order is set aside and the delay is condoned on payment of costs of Rs.1500/- (Rupees Fifteen hundred only) to the respondent/plaintiff within four weeks from the date of receipt of the order. The petitioner shall also deposit 1/4th of the suit amount within the said period. Failing which, the Civil Revision Petition shall stand dismissed.

As a sequel thereto, miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

A.RAJASHEKER REDDY,J

12-10-2015

Nvl

