

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.4236 of 2015

Date:09.10.2015

**Between:**

Kothuri Samba Siva Rao,  
S/o Venkateswarlu

..... **Petitioner**

**And:**

Vantoori Venkatappa Reddy,  
S/o Late Sesha Reddy

.....**Respondent**

Counsel for the Petitioner: Mr. Swaroop Orilla

For Mr.Nagi Reddy Bareddy

Counsel for the Respondent: ---

The Court made the following:

**ORDER:**

This Civil Revision Petition arises out of order, dated 17.8.2015, in I.A.No.806 of 2015 in O.S.NO.268 of 2012 on the file of the learned Senior Civil Judge, Gurazala.

The respondent has filed the above-mentioned suit for recovery of a sum of Rs.8 lakhs along with interest on the foot of promissory note, dated 05.7.2011, allegedly executed by the petitioner. After engaging his advocate and filing vakalat in the said suit in response to the suit summons, the petitioner failed to file the written statement. He was, therefore, set *ex parte* on 02.01.2013. Even thereafter, as the petitioner did not appear and participate in the suit, an *ex parte* decree was passed on 28.01.2013. The

petitioner has filed an application for setting aside the *ex parte* decree. As there was delay of 583 days in filing such application, he has filed I.A.No.806 of 2015 under Section-5 of the Limitation Act for condonation of the said delay. The lower Court by the order under revision has dismissed the said application.

A perusal of the record shows that the only reason assigned by the petitioner for not filing the written statement and participating in the trial of the said suit was that due to threats to his life from the respondent and other creditors, he left his Village-Jangamaheshwarapuram and stayed at Chilakaluripeta Village. The lower Court has not accepted this plea and observed that if there was threat to the petitioner's life, he would not have filed an Insolvency Petition immediately after receiving the summons in the present suit. The lower Court has, accordingly, concluded that the petitioner is negligent in defending himself in the suit and therefore, he failed to offer sufficient explanation for condoning the long delay of 583 days.

Having carefully considered the reasons assigned by the lower Court for declining to condone the delay, I am of the opinion that the same do not suffer from any error, jurisdictional or otherwise.

Accordingly, the Civil Revision Petition is dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.5614 of 2015 is dismissed as infructuous.

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*JUSTICE C.V.NAGARJUNA REDDY*

*09<sup>th</sup> October 2015*

*DR*