

HON'BLE SRI JUSTICE R. SUBHASH REDDY

Civil Revision Petition No.5825 of 2011

Order:

This Civil Revision is filed by the defendant in O.S.No.290 of 2002 on the file of the Principal Junior Civil Judge, Nuzvid, aggrieved by the order dated 14.12.2011 passed in I.A.No.129 of 2010.

The aforesaid suit is decreed ex parte. As there was delay of 230 days in filing petition under Order IX Rule 13 CPC, petitioner herein filed I.A.No.129 of 2010 under Section 5 of the Limitation Act, to condone the said delay. The said delay is condoned on condition of the petitioner depositing 1/4th of the suit amount. Aggrieved by such condition, this revision petition is filed.

I have perused the impugned order.

I.A.No.129 of 2010 is only a petition to condone the delay of 230 days in filing petition under Order IX Rule 13 CPC.

The only question which falls for consideration in this revision petition is whether there is any sufficient cause to condone the delay in filing petition under Order IX Rule 13 CPC. From the material on record, it is clear that it was the case of the petitioner that he was working at Repalle in Guntur District, during the relevant time. As he could not receive information from his counsel, delay has occurred in filing petition under Order IX Rule 13 CPC.

Further, the court below itself has recorded finding that in view of the mistake on the part of the earlier counsel, petitioner should not suffer. Such finding constitutes sufficient reason to condone the delay without any condition. No special reasons have been recorded in the impugned order for imposing condition for deposit of 1/4th of the suit amount.

For the aforesaid reasons, the condition imposed by the court below in the impugned order, i.e. to deposit 1/4th of the suit amount, is hereby set aside.

Civil Revision Petition is allowed to the extent indicated above. No costs. As the suit is of the year 2002, the same shall be disposed of as expeditiously as possible preferably within a period of six months from today.

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R.SUBHASH REDDY, J

January 27, 2015

MRR