

**HON'BLE SRI JUSTICE A RAMALINGESWARA RAO**

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**CIVIL REVISION PETITION No.553 of 2015**

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**ORDER:**

The petitioner is plaintiff in O.S.No.2007 of 2008 on the file I Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar.

2. The said suit was filed for recovery of money from the respondents herein and the same was dismissed on 06.03.2012 for default. On 21.02.2012, the petitioner filed applications in I.A.Nos.1493 of 2012 and 1278 of 2013, seeking condonation of delay in filing the application to set aside the said default order and also to set aside the said order, respectively. The Lower Court while condoning the delay in I.A.No.1493 of 2012 dismissed I.A.No.1278 of 2013, on the ground that the affidavit was filed by the advocate but not by the party. The lower Court also observed that the suit was dismissed on 06.03.2012, but the plaintiff filed the application on 21.12.2012, after lapse of nearly nine months and that since the plaintiff is a bank, it has to look after its proceedings and the grounds mentioned by the counsel are not genuine.

3. The lower Court should have seen that it already condoned the delay in filing the petition to set aside the

default order and hence, it ought not to have commented with regard to the delay, which was already condoned. I.A.No.1278 of 2013 is only to set aside the default order dated 06.03.2012. With regard to the affidavit filed by the advocate, the learned counsel for the petitioner relied on **B.Mallikarjuna Reddy v.**

**G.V.Subba Reddy**<sup>[1]</sup>. In view of the same, the affidavit filed by the advocate shall also be taken into consideration. The lower Court should have seen that the valuable right of the plaintiff is being defeated by technicalities.

4. In such circumstances, the impugned order dated 07.10.2014 is set aside and I.A.No.1278 of 2013 is allowed. The lower Court is directed to proceed with the suit since the required notice was already published on 21.02.2012, by the date of filing of the present application.

5. Accordingly, the Civil Revision Petition is allowed. There shall be no order as to costs.

6. Miscellaneous petitions pending, if any, in this Civil Revision Petition shall stand closed.

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**A RAMALINGESWARA RAO, J**

Date: 16-12-2015  
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[\[1\]](#) 2007(3) ALT 727