

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION NO.3446 OF 2016

ORDER:

This Civil Revision Petition is filed challenging the order dated 24.03.2016 passed in I.A.No.174 of 2015 in O.S.No.253 of 2014 on the file of the III Additional Junior Civil Judge, Ongole, Prakasam District, dismissing the said application, which was filed for condoning the delay of 124 days in representing the returned petition under Order IX Rule 13 of the Code of Civil Procedure (CPC) to set aside the *ex parte* decree dated 18.11.2014.

The respondent herein filed the said suit for permanent injunction and an *ex parte* decree was passed on 18.11.2014. In order to set aside the *ex parte* decree, a petition was filed on 27.12.2014 but the same was returned with some objections. The petition could not be filed within the stipulated time and when it was represented, the delay of 124 days occurred. In those circumstances, the petitioner filed I.A.No.174 of 2015 and the said application was dismissed by order dated 24.03.2016.

Since it is a case of an *ex parte* decree, an appropriate opportunity should have been given to the defendants for not filing the application within the time to set aside the *ex parte* decree.

In the circumstances, the Civil Revision Petition is allowed by setting aside the order dated 24.03.2016 in I.A.No.174 of 2015 and allowing I.A.No.174 of 2015 on payment of costs of Rs.500/- (Rupees five hundred only) to the plaintiff in O.S.No.253 of 2014 within a period of one week from the date of receipt of a copy of this order and on payment of the said amount, the III Additional Junior Civil Judge, Ongole, shall take up the application filed under Order IX Rule 13 CPC and dispose of the

same in accordance with law. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

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(A.RAMALINGESWARA RAO, J)

18<sup>th</sup> November 2016  
RRB

