

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NO.3610 OF 2016

DATED:05-08-2016

Between:

Desetty Appa Rao
and another

... Petitioners

And

Neelathi Varalakshmi

... Respondent

COUNSEL FOR THE PETITIONERS: Mr. Ch. Shanmukha Rao

COUNSEL FOR THE RESPONDENT: -

THE COURT MADE THE FOLLOWING:

ORDER:

-

This civil revision petition arises out of order dt.7.4.2016 in I.A. No.71 of 2015 in O.S. No.960 of 2014 on the file of the II Additional Senior Civil Judge, Visakhapatnam.

The respondent filed the afore-mentioned suit for recovery of Rs.8,22,300/- based on a promissory note. The petitioners entered appearance through a counsel on 20.8.2014 and failed to file written statement for a period of more than three months. On 24.11.2014 the petitioners were set *ex parte*. The suit was posted to 01.12.2014 for the respondent's evidence. As the petitioners failed to appear either in person or through an Advocate, the suit was decreed *ex parte*. The petitioners filed an application for setting aside the *ex parte* decree. They have also filed I.A. No.71 of 2015 for condonation of delay of thirty (30) days in filing the said application for setting aside the *ex parte* decree. Having considered the conduct of the petitioners, the lower Court has set aside the *ex parte* decree subject to the petitioners depositing 1/4th of the suit amount by 07.6.2016. Feeling aggrieved by this order, the petitioners filed this civil revision petition.

After hearing the learned counsel for the petitioners and considering the reasons assigned by the lower Court, I am of the opinion that the order under revision does not suffer from any illegality or jurisdictional error. Considering the fact that the suit is based on a promissory note and the conduct of the petitioners in not filing written statement and remaining *ex parte*, the lower Court is justified in imposing the condition of deposit of 1/4th of the suit amount as a condition for setting aside the *ex parte* decree. Since the time granted by the lower Court has expired, the petitioners are granted four weeks' time from today for depositing the amount.

Subject to the above direction, the civil revision petition is dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P. No.4640 of 2016 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

05-08-2016

bnr