

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

Civil Revision Petition No.5664 of 2015

ORDER:

This Civil Revision Petition is filed by the petitioner/defendant under Sec.115 of C.P.C aggrieved by the order dt:11.03.2015 in I.A.No.941 of 2014 in unnumbered Appeal Suit No...../2014 (GR No.2839 dt:11.06.2014) passed by Principal District Judge, Srikakulam dismissing his application filed under Sec.5 of Limitation Act to condone the delay of 305 days in preferring the appeal against the judgment and decree dt:19.06.2013 in O.S.No.149 of 2009 on the file of Principal Senior Civil Judge, Srikakulam.

2) The respondent/plaintiff filed O.S.No.149 of 2009 against petitioner/ defendant for recovery of Rs.1,60,299/- and interest being the chit amount due as he subscribed chits with the petitioner/defendant. The petitioner/defendant contested the suit and after full-fledged trial the said suit was decreed on 19.06.2013 as prayed for.

3) Aggrieved, the petitioner/defendant preferred an appeal before the Principal District Judge, Srikakulam, but ofcourse with a delay of 305 days. He submitted his illness i.e, his suffering with Jaundice and back ache as the reason for delay but as he could not file any medical

certificate, his plea was not found favour with the Appellate Court and ultimately the learned Judge dismissed the I.A.No.941 of 2014 seeking condonation of delay.

Hence, the C.R.P.

4) On 23.12.2015, this Court ordered personal notice to the respondent and on 22.01.2016, learned counsel for petitioner/ defendant produced postal acknowledgment showing the service of notice on respondent. There is no representation for respondent.

5) Heard learned counsel for petitioner. He submitted that the petitioner was suffering with Jaundice and back ache and he took native medicines and therefore, he could not produce any medical certificate and his valuable rights are at stake and the execution petition filed by the respondent/plaintiff is hovering over him and considering all these, the CRP may be allowed and the impugned order may be set aside and an opportunity may be given to him to prefer the appeal. Learned counsel submitted that to show his *bonafides* the petitioner/defendant would abide by the conditions if any are imposed.

6) Considering the above submissions, it is thought fit to give an opportunity to the petitioner/defendant to carry out the appeal against the judgment of the lower court instead of shutting out the doors, ofcourse by imposing

suitable conditions.

7) Accordingly, this C.R.P is allowed at the admission stage and the impugned order dt:11.03.2015 in I.A.No.941 of 2014 in unnumbered Appeal Suit No...../2014 (GR No.2839 dt:11.06.2014) passed by learned Principal District Judge, Srikakulam is set aside and the delay of 305 days in preferring the appeal is condoned on the condition of petitioner/defendant depositing costs of Rs.500/-(Rupees Five Hundred only) to the District Legal Services Authority, Srikakulam within 15 days from the date of this order and his further depositing 3/4th of the decretal amount and interest thereon within Six(6) weeks from the date of this order, failing which this order shall be deemed cancelled.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 29.01.2016

Note: Issue C.C by tomorrow.

(b/o)

scs