

**HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO**

**C.R.P.Nos.1969 and 2035 of 2016**

**COMMON ORDER:**

1. These two Civil Revision Petitions are being disposed of by this common order as they arise out of the same O.S.No.220 of 2006.

2. The petitioner herein is the plaintiff in the said suit, which was filed for declaration in respect of the suit scheduled property and also for recovery of possession. An ex parte decree was passed on 12.03.2015 against the respondents/defendants. While so, the 7<sup>th</sup> defendant and defendants 1 to 5 filed I.A.Nos.1473 and 1472 of 2015 respectively seeking condonation of delay of 59 days in filing the petitions under Order 9 Rule 13 C.P.C. When the said applications were allowed by separate orders dated 18.01.2016, the present Civil Revision Petitions are filed.

3. In the affidavit filed in support of the application in I.A.No.1473 of 2015, the 7<sup>th</sup> defendant stated that the ex parte decree was erroneously passed on 12.03.2015 and he was temporarily living in Tirupathi on his employment and his advocate did not inform him about the ex parte decree. He came to know about the same when he enquired with his advocate. In the process, the delay of 59 days took place in filing the petition to set aside the said ex parte decree passed against him.

4. In the affidavit filed in support of the application in I.A.No.1472 of 2015, the defendants 1 to 5 stated that they are all uneducated cultivators and they came to know about the ex parte decree when they met their advocate.

5. A detailed counter was filed touching the merits of the case and specifically stating that the defendants are having knowledge of the proceedings including passing of the ex parte decree on 12.03.2015.

6. The applications were allowed by an elaborate and separate orders and following certain binding decisions holding that though the

defendants have not satisfactorily explained the reasons for the delay, with a view to provide an opportunity to them to contest the suit, the delay was condoned on payment of costs.

7. The view taken by the lower Court applying pragmatic approach in condoning the delay of 59days, in my view, does not warrant interference. As this Court finds no irregularity in the orders of the trial Court in exercise of its discretion in condoning the delay of 59 days in filing the petitions for setting aside the ex parte decree, it is always open to the petitioner herein to take appropriate objections to the main applications filed by the defendants for setting aside the ex parte decree passed against them and it is hoped that the trial Court would consider and dispose of the same in accordance with law.

8. The Civil Revision Petitions are accordingly dismissed. No costs. Miscellaneous petitions, if any, pending shall stand closed.

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**A.RAMALINGESWARA RAO, J**

17-06-2016

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