

**THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

**CIVIL REVISION PETITION No. 4962 of 2017**

**ORDER:**

This civil revision petition is arising out of the Order dated 02.03.2017 passed in I.A.No.862 of 2011 in O.S.No.125 of 2010 by the Principal Senior Civil Judge, at Mancherial, allowing the I.A. filed under Section 5 of the Limitation Act to condone the delay of 25 days in filing the petition to set-aside the exparte decree dated 29.10.2010.

2. Heard the learned counsel for the petitioner. Notice has been served on respondent No.1-Branch Manager, United India Insurance Company Limited. Notice could not be served on respondent No.2-General Manager, United India Insurance Company Limited.

3. Learned counsel for the petitioner submits that respondent No.2 is not a necessary party as notice has already been served on respondent No.1, who is defendant No.2 in the suit.

4. At the outset, the very order, prima facie, show that the delay was incorrectly calculated by the trial Court. The impugned order shows that the delay was from 29.11.2010 to 24.11.2011, which means that there is a delay of 11 months 25 days, whereas the trial Court has taken into consideration the

delay as 25 days and allowed the interlocutory application by imposing costs of Rs.2,000/-. It appears that the trial Court was under the impression that the delay was only 25 days and, therefore, has allowed the interlocutory application by imposing costs of Rs.2,000/-. Since the trial Court has not taken into consideration the actual delay from 29.11.2010 to 24.11.2011, the impugned order is liable to be set aside.

5. **IN THE RESULT**, the civil revision petition is disposed of by setting aside the order dated 02.03.2017 passed in I.A.No.862 of 2011 in O.S.No.125 of 2010. The trial Court is directed to pass orders afresh by taking into consideration the exact delay in filing the petition to set aside the exparte decree dated 29.10.2010. No costs. Miscellaneous petitions, if any pending, shall stand closed.

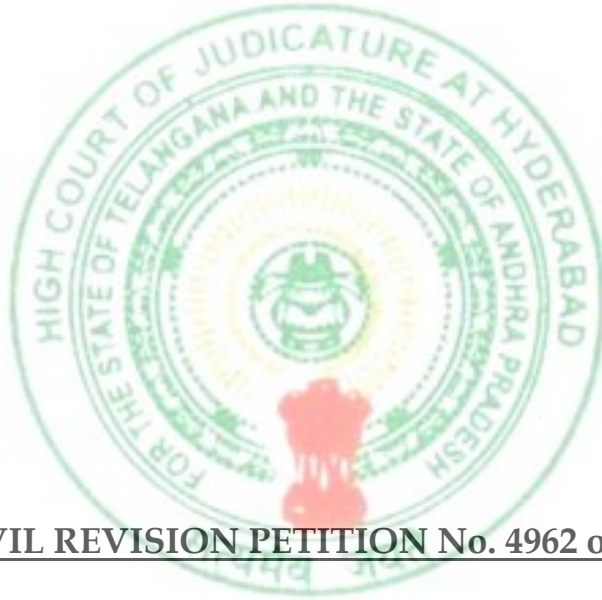
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**GUDISEVA SHYAM PRASAD, J**

13<sup>th</sup> November, 2017

**KSM**

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