

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.1149 OF 2016

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order, dated 04-11-2015 passed in I.A.No.2031 of 2015 in O.S.No.29 of 2010 by the I Additional Chief Judge, City Civil Court, Secunderabad.

2. Petitioner is the defendant, whereas the respondent is the plaintiff in O.S.No.29 of 2010, which was filed for damages.

3. Pending suit, petitioner (defendant) filed the above interlocutory application under Section 5 of the Limitation Act, 1963 to condone delay of 382 days in filing the application for setting aside the judgment and decree, dated 09-06-2014. The trial Court allowed the said application subject to deposit of 50% of the decretal amount to the account of the suit within one month from the date of that order, failing which, the application shall stand dismissed. Hence, this revision.

4. During the pendency of this revision, this Court directed to deposit Rs.1,00,000/- before the trial Court. Accordingly, the petitioner deposited a sum of Rs.1,00,000/-. The suit amount is Rs.2,00,000/- Thus, indirectly the petitioner complied with the order of the trial Court.

5. Taking into consideration of facts and circumstances of the case, more particularly depositing of Rs.1,00,000/- before the trial Court, in pursuance of the direction issued by this Court, nothing survives in this revision. However, since the petitioner has complied with the direction of the trial Court, the impugned order is liable to be set aside and accordingly, it is set aside to the extent of

depositing 50% of the decretal amount. Since the suit is of the year 2010, the trial Court is directed to dispose of the application filed under Order IX Rule 13 CPC and if *ex parte* decree is set aside, decide the suit within a period of six months from the date of receipt of a copy of this order.

6. With the above direction, the Civil Revision Petition is allowed. No order as to costs. Miscellaneous petitions, if any pending, in this revision shall stand closed.

M.SATYANARAYANA MURTHY, J

DATED: 04-07-2017.
Hsd

