

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.993 of 2017

Order:

The defendant in a suit for recovery of money has come up with the above revision challenging an order by which the Trial Court agreed to set aside the *ex parte* decree, but on an onerous condition.

2. Heard Mr. V.V.L.N. Sarma, learned counsel for the petitioner and Mr. Kondapalli Shyam Sunder, learned counsel for the respondent.

3. The petitioner is the brother of the respondent. The suit was for recovery of money. An *ex parte* decree was passed on 08-9-2015. The condone delay application was already allowed condoning the delay of 468 days.

4. Thereafter, the Court below allowed the application under Order IX, Rule 13 CPC subject to the condition that the petitioner deposits 1/4th of the decree amount. Therefore, the defendant is before me.

5. Imposing a condition such as the one done by the Trial Court, is actually onerous. Once the delay is condoned, the Court below could not have imposed such a condition for setting aside the *ex parte* decree. After all, the parties are brother and sister.

6. Therefore, the revision is allowed and the condition imposed by the Trial Court by the impugned order alone is set aside. The other portions of the order shall remain. In other

words, the *ex parte* decree shall stand set aside.
The miscellaneous petitions, if any, pending in this revision
shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

21st April, 2017.

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