

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CIVIL REVISION PETITION No.301 OF 2017

ORDER:

The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure (CPC) seeking to set aside the order, dated 29.12.2015, passed in I.A.No.832 of 2015 in O.S.No.266 of 2009 by the Senior Civil Judge, Ramachandrapuram, East Godavari District, and allow the civil revision petition as prayed for.

Heard and perused the material available on record.

Learned counsel for the petitioner submits that the Court below erroneously dismissed I.A.No.832 of 2015 filed for condoning the delay of 105 days in filing petition to set aside the *ex parte* decree. He further submits that due to the ill-health of the petitioner, she was unable to meet her counsel to give instructions for cross-examination in time and if the said petition is not allowed, the petitioner would suffer serious hardship as the suit is filed for declaration of title and recovery of possession.

This Court is also of the view that the Order passed by the Court below is in accordance with law. However, this Court is of the view that an opportunity may be given to the petitioner to contest the suit as the suit is filed for declaration of title and recovery of possession, on payment of costs. Hence, the impugned order, dated 29.12.2015, passed in I.A.No.832 of 2015 in O.S.No.266 of 2009 by the Senior Civil Judge, Ramachandrapuram, East Godavari District, is set aside on condition of the petitioner paying an amount of Rs.7,000/- (Rupees seven thousand only) towards costs to the respondents 1 to 5 herein and O.S.No.266 of 2009 is restored to its file.

The civil revision petition is accordingly disposed of. Consequently, miscellaneous petitions, if any, pending, shall stand closed.

JUSTICE RAJA ELANGO

25.01.2017
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