

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No.1506 OF 2018

ORDER:

This civil revision petition is filed by the petitioner/defendant aggrieved by the order dated 07.12.2017 in I.A.No.532 of 2015 in O.S.No.26 of 2015 passed by learned Junior Civil Judge, Aleru, dismissing his petition filed under Section 5 of Limitation Act to condone the delay of 27 days in filing the petition under Order IX Rule 13 CPC to set aside the *ex parte* decree passed against him.

2. Heard both sides.

3. It is informed to this Court that O.S.No.26 of 2015 is filed by the respondent/plaintiff seeking perpetual injunction decree against the petitioner/defendant and the petitioner/defendant was set *ex parte* by the trial court when he failed to file the written statement. His plea is that because he was suffering with Jaundice, he remained in the village and could not contact his counsel and therefore, his counsel was unable to file the written statement and in the meanwhile, he was set *ex parte*.

4. Be that it may, having regard to the fact that valuable rights of the parties are at stake in the suit, it is not apt to allow the suit to be decided on technicalities, this revision petition is allowed on suitable terms.

5. Accordingly, this civil revision petition is allowed and the impugned order is set aside and consequently, I.A.No.532 of 2015 is allowed and delay of 27 days in filing petition under Order IX Rule 13 CPC is condoned on the condition of petitioner/defendant paying costs of Rs.1,000/- to the respondent/plaintiff within three weeks from the date of this order, failing which, this order shall be deemed cancelled. Upon complying this condition, the trial court shall dispose of the petition filed by the defendant under Order IX Rule 13 CPC on merits. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

24.08.2018
SS

U.DURGA PRASAD RAO, J

