

THE HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

C.R.P.No.2895 of 2018

ORDER

Vide the present revision petition, the petitioner has challenged the order dated 05.09.2017 passed in I.A.No.1574 of 2013 in O.S.No.57 of 2012 by the Principal Senior Civil Judge, Guntur, allowing the application while condoning the delay of 295 days in filing a petition under Order IX Rule 13 of CPC to set aside the *ex parte* decree dated 14.09.2012.

2. Learned counsel appearing on behalf of the petitioner submits that as per the settled law, if any litigant is blaming the Advocate for not taking steps as per law, he has to file a complaint before the Bar Counsel against such Advocate and thereafter, he can file a petition for delay condonation, if any, whereas in the present case, the respondent has not filed any such complaint and therefore, the trial Court erred in passing the order dated 05.09.2017.

3. It is not in dispute that vide the *ex parte* decree dated 14.09.2012, an amount of Rs.3,32,665/- was granted against the amount of Rs.50,000/- taken as loan by the respondent/defendant. The ground taken in the delay application was that the respondent is a rustic villager and he was not known the date of adjournment and because of the communication gap between him and his Advocate, he could not file the written

statement and consequently, the delay of 295 days occurred in filing petition under Order IX Rule 13 of CPC.

4. Keeping in view the facts and circumstances of the case and the fact that there was communication gap between the Advocate and the respondent, I am of the considered opinion that the trial Court has rightly condoned the delay of 295 days in filing the petition to set aside the *ex parte* decree dated 14.09.2012 in order to give opportunity to the respondent/defendant. Therefore, I find no merit in the present revision.

5. Accordingly, the Civil Revision Petition is dismissed. No order as to costs. Miscellaneous petitions, if any, pending in this revision shall stand dismissed.

2nd May, 2018

sj

SURESH KUMAR KAIT, J

