

THE HON'BLE SRI JUSTICE A. RAJASEKHAR REDDY

CIVIL REVISION PETITION No.6823 of 2018

ORDER:

This Civil Revision Petition, under Section 115 of CPC, is filed challenging the Order dt. 09.08.2018 in I.A.No.418 of 2018 in O.S.No.43 of 2013 passed by the Principal Junior Civil Judge, Srikalahasti, wherein and whereby the application filed by the petitioner under Section 5 of the Limitation Act, 1963, for condoning delay of 1013 days in filing petition under Order IX Rule 13 of CPC to set aside the *ex parte* Order dt.27.04.2015 passed in O.S.No.43 of 2013 was dismissed.

Learned counsel for the petitioner submits that the Court below, without considering the fact that the petitioner filed petition under Order IX Rule 13 CPC along with delay condonation petition and also enclosed copy of the Written Statement and the petitioner was suffering from Jaundice, dismissed the said application. He further submits that since substantial rights of the petitioner concerning immovable property are involved, the Court below should have given an opportunity to the petitioner to defend his case.

In this case, it is to be seen that the suit is of the year 2013 and the decree is passed in 2015 and the Execution Petition is filed in the year 2016. In Execution Petition, notice was issued to the petitioner, but the petitioner remained *ex parte* and the Executing Court passed *ex parte* order on

27.09.2016. The present application is filed in the year 2018 when the EP is posted for depositing of the amount on 19.02.2018. The Court below considered the issue in perspective. A perusal of the affidavit filed in support of the petition goes to show that delay is not properly explained and the affidavit is vague.

In view of the same, I do not see any reason to interfere with the findings arrived by the Court below while exercising power under Section 115 of CPC.

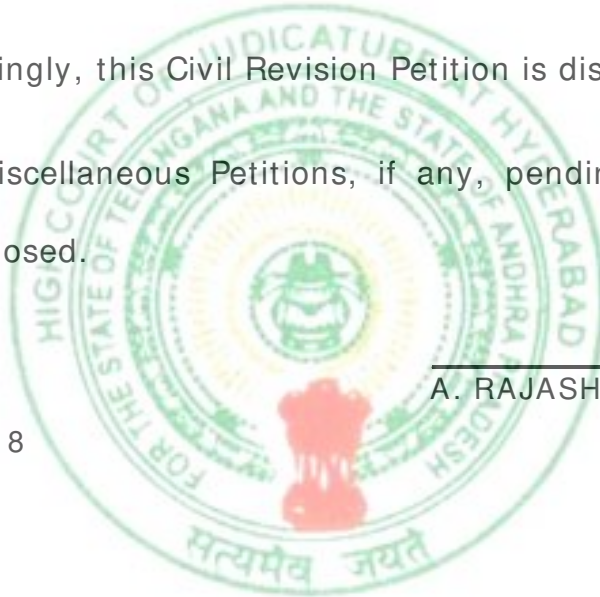
Accordingly, this Civil Revision Petition is dismissed.

The miscellaneous Petitions, if any, pending in this case shall stand closed.

A. RAJASHEKER REDDY, J

Dt: 30-11-2018

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Dt. 30.11.2018

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