

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.Nos.1165, 1211, 1212, 1238 and 1244 of 2018

COMMON ORDER :

Heard the learned counsel for petitioner. Learned counsel for 1st respondent absent even though name of Sri E.S.Kumar is appearing in the cause list.

2. The orders impugned in these Revisions are orders passed seeking condonation of delay in filing applications to set aside the *ex parte* decree and judgment dt.01-06-2016 in O.S.No.70 of 2012 and batch.

3. By a cryptic order dt.05-02-2018/29-01-2018, the Court below returned the said applications citing a judgment of the Supreme Court allegedly published in AIR 1975 AP 366 (DB).

4. In my considered opinion there is no judgment of the Supreme Court published in AIR 1975 AP 366 (DB) and it is only a judgment of a Division Bench of this Court and in the said judgment, the scope exercise of power under Section 5 of the Limitation Act, 1963 has not been considered.

5. In any event, the Court below had a duty to number the I.As, issue notice to other side and then decide the matter in accordance with law and it has failed in even numbering them and had returned them. The impugned orders cannot be sustained.

6. Therefore, these Civil Revision Petitions are allowed; the impugned orders are set aside; all the applications for condonation of delay in seeking to set aside the *ex parte* decrees in O.S.No.70 of 2012 and batch are restored to the file of the said Court; and the Court below is directed to number the same, issue notice to respondents and then decide the same in accordance with law. No costs.

7. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 30-04-2019

Vsv

