

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Miscellaneous Appeal Nos.1250, 1272, 1273 and 1275 of 2017

COMMON JUDGMENT :

All these Civil Miscellaneous Appeals are filed challenging the orders dt.09.08.2017 passed by the XVI Additional District and Sessions Judge, Ranga Reddy District, at Malkajgiri, dismissing the applications filed under Order IX Rule 13 of Civil Procedure Code, 1908 as a sequel to dismissal of applications filed under Section 5 of the Limitation Act, 1973 in the suits O.S.No.1555 of 2014, O.S.No.1441 of 2014, O.S.No.1556 of 2014 and O.S.No.1554 of 2014.

2. The counsel for appellants sought to contend that the orders dismissing the applications filed under Section 5 of the Limitation Act, 1973 to condone the delay in filing applications under Order IX Rule 13 of Civil Procedure Code, 1908 in each of the suits had been set aside by order dt.24.11.2017 in C.R.P Nos.5371, 5487, 5507 and 5564 of 2017 by this Court; and once these orders are set aside, automatically the applications filed under Order IX Rule 13 of Civil Procedure Code, 1908 filed in each of these suits are also liable to be allowed setting aside the impugned orders dt.09.08.2017 in each of the Appeals.

3. On the other hand, the counsel for respondents contended that no doubt vide order dt.24.11.2017 the C.R.P Nos.5371, 5487, 5507

and 5564 of 2017 had been allowed setting aside the orders passed by the Court below refusing to condone the delay in filing applications under Order IX Rule 13 of Civil Procedure Code, 1908 in each of the above suits, but subsequently though opportunity was given by the Court below to file written statements in those suits, the petitioner not having filed the same, the petitioner was again set *ex parte* and the matter was posted for 'judgment'. He also produced print-outs of the *web site* of the Court below, viz., <https://services.ecourts.gov.in> in support of the said contention.

4. The counsel for appellants did not dispute the same.

5. It thus appears that the trial court had in fact restored the suits to it's file after the C.R.P Nos.5371, 5487, 5507 and 5564 of 2017 were allowed on 24-11-2017 without waiting for disposal of these CMAs.

6. It was expected of the Court below to await formal consequential orders in these CMAs allowing the CMAs and setting aside the *ex parte* decrees in the above suits too before proceeding further.

7. Having regard to the reasons assigned in the CRPs, therefore these CMAs are also allowed; the *ex parte* decrees passed in the suits O.S.No.1555 of 2014, O.S.No.1441 of 2014, O.S.No.1556 of 2014 and O.S.No.1554 of 2014 by the XVI Additional District and Sessions Judge, Ranga Reddy District, at Malkajgiri are accordingly set aside; and the said suits are restored to the file of the said Court. No costs.

8. As a sequel, miscellaneous applications pending if any in these Civil Miscellaneous Appeals, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 09-04-2019

Ndr/

