

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6641 OF 2012

(SPECIAL LEAVE PETITION(C.)NO.27883 OF 2010)

DEVINENI PADMAJA

APPELLANT

VERSUS

VUNDAVALLI SRINIVASA RAO

RESPONDENT

O R D E R

1. Leave granted.

2. This appeal is directed against the judgment and order passed by the High Court of Judicature of Andhra Pradesh at Hyderabad in Civil Revision Petition No.1188 of 2009, dated 26.3.2010. By the impugned order, the High Court has allowed the Revision Petition and has directed the lower Appellate Court to decide the case on merits.

3. We have heard learned counsel for the parties to the *lis*.

4. Plaintiff's suit was for recovery of a sum of Rs.2,35,100/- with interest thereon. The suit was based on a pro-note. The Trial Court had decreed the suit.

5. Being aggrieved by the aforesaid judgment and decree passed by the Trial Court, the Defendant had filed an appeal before the First Appellate Court.

Cont..2/-

Since there was a delay of 992 days in filing the appeal, they had also filed an application under Section 5 of the Limitation Act, 1963. The First Appellate Court rejected that application and consequently, the appeal was also rejected. Being aggrieved by the aforesaid order, the Defendant had filed a Civil Revision Petition before the High Court being Civil Revision Petition No.1188 of 2009.

6. The High Court, after hearing the parties, has allowed the Civil Revision Petition and has set aside the orders passed by the lower Appellate Court. Further, the Court had directed the Defendant to deposit half of the decretal amount within six weeks' from the date of receipt of the copy of the Court's order. Further, the Court had permitted the Plaintiff to withdraw half of the amount so deposited.

7. Aggrieved by the said order passed by the High Court, the Plaintiff is before us in this appeal.

8. During the pendency of this appeal, we had directed the Defendant to deposit a sum of Rs.2,50,000/-. Pursuant to the aforesaid order, the Defendant has deposited the aforesaid amount before this Court.

9. We also note that pursuant to the directions issued by the High Court, the Defendant has also deposited a sum of Rs.1,17,550/-.

Cont..3/-

10. We have gone through the orders passed by the High Court. In our view, in the facts and circumstances of the case, the High Court was justified in condoning the delay in filing the appeal by the Defendant and further directing the Defendant to deposit certain amounts.

11. In view of the above, while disposing of the appeal, we permit the Plaintiff to withdraw a sum of Rs.2,50,000/- deposited by the Defendant before this Court. However, he is restrained from withdrawing any amount deposited by the Defendant before the Trial Court.

12. In view of the disposal of the appeal, now the First Appellate Court shall decide the appeal on merits, as directed by the High Court while disposing of the Civil Revision Petition No.1188 of 2009.

Ordered accordingly.

.....J.
(H.L. DATTU)

.....J.
(CHANDRAMAULI KR. PRASAD)

NEW DELHI;
SEPTEMBER 17, 2012