

**THE HON'BLE SRI JUSTICE N.R.L. NAGESWARA RAO**

**APPEAL SUIT No.2729 OF 1996**

**JUDGMENT:-**

The respondents/defendants in I.A.No.447 of 1993 in O.S.No.34 of 1985 on the file of the Court of the Subordinate Judge at Siddipet, are the appellants herein.

2. The appeal is filed against the order of passing of a final decree in a suit for mortgage.

3. The plaintiff has filed the suit on the basis of a mortgage and it was decreed and preliminary decree was passed on 27.09.1986 with all the necessary consequences. However, the present application for passing of the final decree was filed on 16.10.1993 and the said petition was allowed on 24.02.1995.

4. The contention of the learned counsel for the appellants is that the application has been filed beyond a period of three years and therefore, the Court below should not have allowed the said application. Under Article 137 of the Limitation Act any application for passing of the final decree shall be three years from the date when the right to apply accrues. The period of redemption is months and thereafter the period of three years has to be calculated. As can be seen from the record, it is quite clear that the application is filed beyond the period of three years. Consequently, the application is not maintainable and the final decree is liable to be set aside.

5. The learned counsel for the respondent tried to contend that there was no need to obtain a final decree at all and the respondent-bank can proceed directly for sale. The above question is beyond the scope of consideration in this appeal.

6. Accordingly, the appeal is allowed setting aside the final decree passed by the Court below. No costs. Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

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**JUSTICE N.R.L. NAGESWARA RAO**

Date: 12.12.2012

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