

**HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY**

**CIVIL REVISION PETITION No.6731 OF 2017**

**O R D E R :**

This revision is filed against order dated 22-11-2017 in I.A.No.155 of 2017 in Appeal under S.R.No.475, dated 15-02-2017, wherein the Court below dismissed the application filed by the petitioner under Section 5 of Limitation Act, 1963 to condone the delay of (182) days in filing the appeal.

Learned counsel for the petitioner submits that though the petitioner filed medical documents in support of his ill-ness, the Court below instead of taking liberal approach dismissed the application.

Learned counsel for respondent No.1 has opposed the revision by submitting that Court below has rightly dismissed the application.

It is to be seen that the petitioner has filed some medical prescriptions showing that he is not well and the Court below has considered and passed the order. A reading of the order goes to show that the Court below has considered the plea of the petitioner for condonation of delay and dismissed the application. No infirmity was brought to the notice of this Court in the impugned order. But however, learned counsel for the petitioner submits that revision can be allowed on payment of costs as respondents can be compensated on payment of costs. Learned counsel for

respondent No.1 says that decree is executed and possession of the subject property was also delivered. There is no fault on the part of respondent No.1 and it is the fault of petitioner in filing the appeal with delay.

Since admittedly revision petitioner is already evicted, the question of putting him back into possession does not arise. As the petitioner wants to contest the appeal on merits and ready to pay the costs, this Court is of the opinion that the revision can be allowed on payment costs.

In view of the same, revision is allowed and the impugned order is set aside and the delay is condoned on payment of costs of Rs.5,000/- each to respondent No.1 and his counsel herein within a period of one week and file proof of the same before the Court below and on filing the proof only, the Court below shall take up the appeal for hearing.

As a sequel thereto, miscellaneous petitions, if any, pending in this revision, shall stand closed.

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**A.RAJASHEKER REDDY, J**

31-01-2018  
Nvl