

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/-

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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/-

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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
ITEM NO.69

COURT NO.8

SECTION XIIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).27883/2010
(From the judgement and order dated 26/03/2010 in CRP No.1188/2009 of the
HIGH COURT OF JUDICATURE OF A.P. AT HYDERABAD)

DEVINENI PADMAJA Petitioner(s)

VERSUS

VUNDAVALLI SRINIVASA RAO Respondent(s)
(With appln(s) for modification of Court's Order and permission for
withdrawal of amount and office report)

Date: 17/09/2012 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE H.L. DATTU
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Petitioner(s) Mr.A.D.N.Rao, Adv.
Mr. R.Chandrachud,Adv.
Mr.Allanki Ramesh, Adv.
Ms.G.Madhavi, Adv.
Mr.Y.Rajesh Kumar, Adv.

For Respondent(s) Mr. Y. Raja Gopala Rao,Adv.
Ms.Y.Vismai, Adv.
Mr.Hitendra Nath, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

Heard learned counsel for the parties.

Appeal is disposed of, in terms of the signed order.

(G.V.Ramana)
Court Master
(signed order is placed on the file)

(Vinod Kulvi)
Court Master