

SUPREME COURT OF INDIA

Annapareddy Adireddy

Vs.

Bolla Subba Reddy

C.A.No.462 of 2009

(B.N. Agrawal and G.S. Singhvi JJ.)

27.01.2009

ORDER

Leave granted.

1. In spite of service of notice, nobody has entered appearance on behalf of the respondents to contest the prayer made in this appeal.
2. Heard learned counsel appearing on behalf of the appellant.
3. The Trial Court decreed the suit ex-parte. Against the said order, an appeal was preferred before the First Appellate Court along with an application under Section 5 of the Limitation Act. The First Appellate Court refused to condone the delay of ninety two days in filing the appeal and dismissed the appeal as barred by limitation. The said order has been confirmed by the High Court in revision. Hence, this appeal by special leave.
4. Having taking into consideration the entire pros and cons of the matter, we are of the view that the First Appellate Court was not justified in refusing to condone the delay in filing the appeal and the High Court committed an error in confirming the said order.
5. Accordingly, the appeal is allowed, impugned orders are set aside, delay in filing the appeal before the First Appellate Court is condoned and the matter is remitted to that Court to decide the appeal on merits in accordance with law after giving opportunity of hearing to the parties.