

CPC , O. 9, R. 13 - Limitation Act, Section 5, Article 123 - Lack of knowledge is also a sufficient cause for condonation of delay - Setting aside the decree passed ex parte- Defendant duly served and appeared through counsel and sought adjournment on several occasions to file written statement - Set ex parte and subsequently counsel filed petitions for adjournment but no prayer to set aside the ex parte order was made nor the written statement was filed - Ex parte judgment pronounced - Limitation for filing of petition under Order IX Rule 13 CPC commences from the date of passing of the ex parte decree under Article 123 of the Limitation Act provides when summons were duly served on the Defendants - Application under Order IX Rule 13 CPC filed along with a application under Section 5 of the Limitation Act - Delay explained on the ground that they came to know about the ex parte decree from their Advocate and thereafter from the Advocate's Clerk and immediately thereafter, steps were taken to obtain certified copy of the judgment and decree and petition for setting aside ex parte decree was filed - Record suggests latches on the part of counsel- Explanation of sufficient cause for non-appearance of Defendants on the date when the suit was called on for hearing is also because of lack of knowledge - Lack of knowledge having been established prepondering the probabilities - Defendants have shown sufficient cause for their non-appearance on the date when the suit was called for hearing - Civil Judge has exercised discretion judiciously - No interference is warranted with regard to setting aside the ex parte decree.

[, 2022 PLRonline 5402, 2022 SCeJ 0243 \(Orr.\)](#)

[.Himansu Sekhar Srichandan v. Sudhir Ranjan Patra , 2022 PLRonline 5402, 2022 SCeJ 0243 \(Orr.\)](#)