

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 laches 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 \(Orr.\)](#)