

APHC010160842025



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3333]

THURSDAY, THE THIRTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

CIVIL REVISION PETITION NO: 820/2025

Between:

1.GUNDLAPALLI REDDEISEKHAR, , S/O., G.NAGARAJU, AGED ABOUT 39 YEARS, R/AT D.NO. 3-189-13-150-116, GOUTHAMINAGAR, H/O BK PALLE.MADANAPALLE TOWN AND MANDAL, CHITTOOR DISTRICT.

...PETITIONER

AND

1.GUNDLAPALLE VENKATRAMANA, S/O., G.NARAYANA, AGED ABOUT 44 YEARS, R/AT., D.NO.2-250-A-2, RAJANAGAR, NG PALLE, KADIRI ROAD, MADANAPALLE TOWN AND MANDAL, CHITTOOR DIST.

2.GUNDLAPALLI HARISH, S/O G.NAGRAJU, (DIED) AGED ABOUT 31 YEARS, R/AT D.NO. 3-189-13-150-116, GOUTHAMINAGAR, H/O BK PALLE, MADANAPALLE TOWN AND MANDAL, CHITTOOR DISTRICT

...RESPONDENT(S):

Petition under Article 227 of the Constitution of India,praying that in the circumstances stated in the grounds filed herein,the High Court may be pleased toMemorandum of Civil Revision Petition aggrieved by the Order, dt. 03.02.2025 IN I.A.NO.198/2021 IN A.S. NO./2021 ON THE FILE OF THE

COURT OF THE SECOND ADDITIONAL DISTRICT JUDGE AT
MADANAPALLE

Counsel for the Petitioner:

1.VARADAM SAI LIKHITH

Counsel for the Respondent(S):

1.

The Court made the following:

ORDER:

This Civil Revision Petition is filed by the petitioner/defendant aggrieved by the order dated 03.02.2025 in I.A.No.198 of 2021 in an un-numbered appeal suit on the file of the Court of the II Additional District Judge, Madanapalle, whereby, the Court below dismissed the application filed by the petitioner, under Order XLI Rule 3(A) and under Sections 148, 151 of the Code of Civil Procedure (for short 'CPC'), for condoning the delay of 346 days in filing the appeal against the judgment and decree passed by the learned Principal Senior Civil Judge, Madanapalle on 06.05.2020 in O.S.No.277 of 2018.

2. Brief facts of the case are that the respondent No.1 herein has instituted a suit against the petitioner and respondent No.2 (died) in O.S.No.277 of 2018 for recovery of an amount of Rs.8,56,000/- wherein, the trial Court passed the judgment and decree dated 06.05.2020 in favour of the 1st respondent. Aggrieved by the same, the petitioner/defendant filed an appeal before the appellate Court on 06.04.2021, but, the same was returned for non-filing of the petition under Section 5 of Limitation Act. Subsequent thereto, due to COVID-19, petitioner could not file the petition under Section 5 of Limitation Act, however, after complying with the queries raised, the petitioner filed I.A.No.198 of 2021 under Order XLI Rule 3(A) and under Sections 148, 151 of

CPC, requesting the Court below to condone the delay of 346 days in representation of the appeal and to receive the same. The Court below, vide the impugned order dated 03.02.2025 dismissed the said application filed by the petitioner as there are no valid reasons or sufficient grounds to condone the inordinate delay of 346 days in filing the appeal. Aggrieved by the order dated 03.02.2025, this revision petition is filed.

3. Heard Mr. V. Sai Likhith, learned counsel for the petitioner. In spite of notice served, there is no representation on behalf of the 1st respondent.

4. Admittedly, a suit for recovery of an amount of Rs.8,56,000/- was filed by the respondent No.1 herein against the petitioner herein and the 2nd respondent (died). In the said suit, learned Principal Senior Civil Judge, Madanapalle, passed a judgment and decree on 06.05.2020 against the petitioner by directing as under:

“In the result, the suit is preliminary decreed with costs for sum of Rs.8,56,000/- with subsequent interest at 12% p.a. from the date of suit till the date of decree and thereafter at 6% p.a. till realization on the principle amount of Rs.5,00,000/-. Time for redemption is three months.”

5. It is the case of the petitioner that against the said judgment and decree dated 06.05.2020, the petitioner preferred an appeal before the learned Second Additional District Judge, Madanapalle on 06.04.2021, but the same was returned due to non-filing of the petition under Section 5 of the Limitation

Act. Subsequently, when petitioner complied with all the objections raised by the office, filed I.A.No.198 of 2021 under Order XLI Rule 3(A) and under Sections 148, 151 of CPC, requesting the appellate Court to condone the delay of 346 days in filing the appeal but the same was dismissed. As the petitioner filed the petition under Order, XLI Rule 3(A) of CPC, it would be appropriate to extract the same hereunder:

“3A. APPLICATION FOR CONDONATION OF DELAY.

- (1) When an appeal is presented after the expiry of the period of limitation specified therefor, it shall be accompanied by an application supported by affidavit setting forth the facts on which the appellant relies to satisfy the Court that he had sufficient cause for not preferring the appeal within such period.
- (2) If the Court sees no reason to reject the application without the issue of a notice to the respondent, notice hereof shall be issued to the respondent and the matter shall be finally decided by the Court before it proceeds to deal with the appeal under rule 11 or rule 13, as the case may be.
- (3) Where an application has been made under sub-rule (1) the Court shall not make an order for the stay of execution of the decree against which the appeal is proposed to be filed so long as the Court does not, after hearing under rule 11, decide to hear the appeal.”

6. Rule-3A(1) of Order 41 CPC provides for filing of an application supported by an affidavit in a time barred appeal setting forth the facts on which the appellant relies to satisfy the Court that he had sufficient cause for not preferring the appeal within the period of limitation. As per sub-rule (2) of Rule 3A, if the Court finds no reason to reject the application without issuing a notice to the respondent, notice thereof shall be issued to the respondent and the matter shall be finally decided by the Court, before it proceeds to deal with the appeal under Rule 11 or Rule 13, as the case may be. Sub-Rule (2) of Rule 3A thus makes it clear that the Court before proceeding to deal with the appeal under Rule 11 or Rule 13, shall decide the application filed for condonation of delay.

7. A perusal of the material available on record would go to show that, initially, aggrieved by the judgment and decree dated 06.05.2020 the petitioner preferred the appeal before the appellate Court on 06.04.2021, but the same was allegedly returned due to few objections raised by the office for non-filing of petition under Section 5 of Limitation Act. When the petitioner contended before the appellate Court that he filed the appeal on 06.04.2021 itself, the appellate Court, in the impugned order, disbelieved the version of the petitioner that the appeal was filed on 06.04.2021, due to lack of documentary proof. On a perusal of the affidavit filed in support of I.A.No.198 of 2021, it can be observed that the petitioner filed the same on 22.04.2021.

8. It is a well known fact that the Hon'ble Supreme Court, in March, 2020, took *suomotu* (vide SUO MOTU WRIT PETITION (C) No.3 of 2020) cognizance of the difficulties being faced by litigants in filing petitions/applications/suits/appeals/all other quasi judicial proceedings within the period of limitation prescribed under the general law of limitation or under any special laws due to the outbreak of the COVID-19 pandemic. In the said petition, the Hon'ble Supreme Court, vide order dated 23.03.2020, directed extension of limitation in all proceedings before Courts/Tribunals including this Court w.e.f. 15.03.2020 till further orders. Thereafter, in the year 2022, in an application filed by the Supreme Court Advocates-on-Record Association, the Hon'ble Apex Court, on 10.01.2022 has passed the following:

I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply..."

9. A perusal of the aforesaid order, it can be understood that the Hon'ble Supreme Court has restored its earlier order dated 23.03.2020 and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it has directed that the entire period from 15.03.2020 to 28.02.2022 shall be completely excluded from the computation of limitation for all judicial and quasi-judicial proceedings, which means that no part of the above mentioned period would be counted while determining whether a case, appeal, or application is filed in time. Additionally, in situations where the limitation would have ordinarily expired during the excluded period, every litigant will be entitled to a fresh period of 90 days starting from 01.03.2022, irrespective of the time that was actually left. However, if the actual balance period available from 01.03.2022 exceeds 90 days, then that longer period shall apply instead of 90 days.

10. Admittedly, the petitioner filed the appeal on 06.04.2021 against the judgment and decree dated 06.05.2020 passed in O.S.No.277 of 2018, but the same was allegedly returned with few objections by the office. A perusal of the affidavit filed in support of I.A.No.198 of 2021, would go to show that the petitioner filed the same on 22.04.2021. Admittedly, an appeal against the judgment and decree passed in Original Suit shall be filed within 30 days before the appellate Court and 90 days before the High Court. In the case on hand, in general, the petitioner is obligated to file an appeal against the

judgment and decree dated 06.05.2020 before the appellate Court within 30 days. However, the Hon'ble Supreme Court, vide order dated 10.01.2022 excluded the entire period from 15.03.2020 to 28.02.2022 from the computation of limitation for all judicial and quasi-judicial proceedings, which means that no part of the said period would be counted while determining whether the appeal filed by the petitioner before the appellate Court is filed in time. The date of judgment and decree i.e. 06.05.2020 and the date of filing of the appeal i.e. 22.04.2021, both fall within the period from 15.03.2020 to 28.02.2022 that has been excluded by the Hon'ble Supreme Court for the purpose of computing limitation. In such a case, it cannot be held that the petitioner has filed the appeal before the appellate Court with inordinate delay.

11. In view of the above, this Civil Revision Petition is allowed and the order dated 03.02.2025 in I.A.No.198 of 2021 in A.S.No.NIL of 2021 (un-numbered) passed by the learned Second Additional District Judge at Madanapalle is hereby set-aside. There shall be no order as to costs.

Consequently, miscellaneous applications, pending, if any, shall also stand closed.

JUSTICE V. SUJATHA

Date:13.11.2025

Gss