

*** THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**
*** THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM**

I.A.No.1 of 2025
in
APPEAL SUIT NO: 170/2025

% 23.04.2026

1. Alla Sanyasi Rao (died), & 3 others

.....appellants/applicants

And:

\$1. Adari Chakravarthi & 2 others

....Respondents/respondents

!Counsel for the appellants : Sri Y. Ramatirdha

^Counsel for the respondents : Sri G.R.Sudhakar

<Gist:

>Head Note:

? Cases referred:

1. A.S.No.585 of 2025 dated 03.12.2025
2. A.S.No.414 of 2019 dated 14.10.2020

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

* * * *

I.A.No.1 of 2025
in
APPEAL SUIT NO: 170/2025

Between:

Alla Sanyasi Rao (died), & 3 others

..... PETITIONER**AND**

Adari Chakravarthi & 2 others

....RESPONDENTS**DATE OF JUDGMENT RESERVED : 21.01.2026****DATE OF JUDGMENT PRONOUNCED : 23.04.2026****DATE OF JUDGMENT UPLOADED : 23.04.2026****SUBMITTED FOR APPROVAL:****THE HON'BLE SRI JUSTICE RAVI NATH TILHARI****&****THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM**

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|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether Your Lordships wish to see the fair copy of the Judgment? | Yes/No |

RAVI NATH TILHARI,J

MAHESWARA RAO KUNCHEAM,J

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

I.A.No.1 of 2025
in
A.S.No.170 of 2025

ORDER:- *(per Hon'ble Sri Justice Ravi Nath Tilhari)*

Heard Sri Y.Ramatirdha, learned counsel for the appellants and Sri G.R.Sudhakar, learned counsel for the respondents in I.A.No.1 of 2025.

2. The plaintiffs-respondents filed O.S.No.451 of 2014 for specific performance of contract and also with alternative prayer of refund of earnest money with subsequent interest, damages and costs. The suit was initially filed against the sole defendant but later, on his death, defendant Nos.2 to 4 were brought on record. The defendants are the appellants in the appeal.

3. In the suit the learned XII Additional District Judge, Visakhapatnam on the findings recorded on issue Nos.1 & 2 in particular that the suit agreement of sale deed dated 20.06.2013 was valid and binding on the defendant Nos. 2 to 4, decreed the suit for the main relief with costs by judgment and decree dated 14.08.2024.

4. The appeal has been filed with the delay of 111 days. I.A.No.1 of 2025 has been filed to condone the delay supported with affidavits. The respondents have filed counter to which the appellants have filed rejoinder affidavit.

5. By order dated 30.07.2025 the parties were referred to mediation and conciliation centre of this Court which submitted a report that the matter could

not be settled in mediation and so by order dated 16.12.2025 the matter was listed for consideration of the pending applications.

6. Learned counsel for the appellants submitted that the plaintiffs-respondents filed caveat petition apprehending that the appellants would be approaching this Court in appeal. However, after filing of caveat petition there were efforts of compromise through elders but due to unreasonable demands of the respondents, any compromise could not be arrived at and because of that reason the appeal could not be filed in time. The appellants were reasonably expecting some settlement with the intervention of the elders; however the same did not materialise and there was delay of 111 days.

7. Learned counsel for the appellants submitted that the plaintiffs-respondents filed the execution case in EP.No.825 of 2024. The appellants acquired knowledge and appeared in the said case on 11.03.2025 and thereafter immediately filed the present appeal on 28.03.2025. An additional affidavit to that effect has been filed on 29.07.2025 pursuant to the Court's order dated 23.07.2025. Learned counsel for the appellants submitted that the cause shown is sufficient and delay deserves to be condoned.

8. Learned counsel for the respondents submitted that the respondents have filed the counter affidavit. The plea of mediation efforts out of Court is only after thought and for the purpose of getting condonation of delay. At any point of time the respondents did not receive any call either from the appellants or from the elders for negotiations or compromise. The appellants have not specified the details of those elders nor the dates. There was no

proposal of compromise submitted nor the alleged demand made by the respondents, termed as unreasonable.

9. Learned counsel for the respondents submitted that the certified copy of the judgment and decree was made ready and was delivered to the appellants on 20.09.2024 but they filed the appeal only on 28.03.2025, and there is delay of 7 months in filing the appeal which deserves not to be condoned.

10. Learned counsel for the respondents further submitted that the respondents have deposited the amount of Rs.10 lakhs to the credit of the suit on 10.09.2024 in terms of the directions in the decree and thereafter filed E.P.No.825 of 2024 on 24.10.2024, in which the notices were served to the appellants. The appellants filed the vakalat and sought time to file counters in the execution petition but they filed the appeal.

11. The appellants have filed a rejoinder affidavit, and reiterated their stand.

12. We have considered the above submissions of the learned counsels and perused the material on record.

13. On the point of days of delay, the respondents have stated that there is a delay of about 7 months i.e., 217 days. The same is disputed by learned counsel for the appellants. As per the office report there is delay of only 111 days in filing the appeal. We have seen the computation of limitation period made by the Registry. It appears to us that the respondents are counting the period of limitation from the date of the judgment and decree till the filing of the appeal. The office has calculated the limitation and the delay and rightly so,

having due regard to the copying days and has arrived at the conclusion that there is delay of 111 days which is correct and we proceed taking 111 days delay in filing the appeal.

14. On consideration of submissions advanced and after going through the contents of the affidavit, we are of the view that the delay of 111 days in filing the appeal is not an inordinate delay. The suit is for a specific performance of contract which was decreed in favour of the respondents. The valuable right of the parties are involved. The appeal is a statutory right which cannot be taken away lightly. At the same time, it is also settled in law that on expiry of the period of limitation for filing the appeal a valuable right accrues to the decree holder to treat the decree as final and binding. In the matters of condonation of delay, the law is also well settled that the expression 'sufficient cause' has to be construed liberally in favour of opportunity of hearing, in appeal which is a right conferred by the statute and particularly when it is the first appeal, which is open on law and fact both. The Courts have always leaned in favour of providing opportunity of hearing. It is well settled that a litigant is not benefited by preferring an appeal late and unless there is negligence or inaction on the part of the appellants, a lenient view deserves to be taken and the delay deserves to be condoned for the sufficient cause.

15. The cause shown in the present case is that with the intervention of the elders the matter was being tried to be settled through compromise or settlement out of Court. The appellants had hope of such settlement and consequently, they waited for any such amicable resolution, which however

did not succeed. In the meantime the respondents filed the execution petition and on being aware about the execution case the appellants appeared and filed vakalat in Execution Petition on 15.03.2025 and immediately they preferred the present appeal on 28.03.2025. The respondents have denied any such call for mediation and have also said that nothing has been stated with respect to such elders, date and time for mediation or any proposal. We are of the view that now a days the mediation is considered as one of the effective modes to resolve the dispute amicably. It may also be with the intervention of some elderly persons. There is no bar in settling the dispute out of Court. The appellants might not have stated the names of those elders but many times it is not desirable to disclose the names unless the settlement takes place.

16. We are of the further view that the appellants had received certified copy of the judgment and decree dated 14.08.2024 in time on 20.09.2024. They had applied for those copies on 28.08.2024. It shows that the appellants intended to file appeal. They were not negligent or inactive. There also appears to be no ground but a justifiable one, as to why the appellants would not have filed the appeal in time after receiving the certified copies. On the preponderance of probabilities there appears to be the cause as stated in the affidavit for condonation of delay in the circumstances of the case which is also found sufficient to condone the delay. The delay is also not inordinate. Any negligence or deliberate inaction on the part of the appellants could not be attributed nor shown so as to disallow the application for condonation of delay.

17. In ***Collector, Land Acquisition, Anantnag v. Mst. Katiji***¹, the Hon'ble Apex Court held that ordinarily a litigant does not stand to benefit by lodging an appeal late and refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. The Hon'ble Apex Court further held that when the substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred.

18. Para-3 in *Collector (supra)* reads as under:

“3. The legislature has conferred the power to condone delay by enacting Section 5 of the Indian Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on “*merits*”. The expression “sufficient cause” employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice — that being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other courts in the hierarchy. And such a liberal approach is adopted on principle as it is realized that:

“1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. “Every day's delay must be explained” does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side

¹ (1987) 2 SCC 107

cannot claim to have vested right in injustice being done because of a non-deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

Making a justice-oriented approach from this perspective, there was sufficient cause for condoning the delay in the institution of the appeal.”.

19. Learned counsel for the respondents placed reliance in ***P.Vanajamma v. Peddi Reddy Yoga Narasimha Reddy*** in A.S.No.585 of 2025 dated 03.12.2025 in which it was held that even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds.

20. Learned counsel for the respondents also placed reliance in ***Rapaka Anjana Rao v. Rapaka Chandrasekhara Rao*** in A.S.No.414 of 2019 dated 14.10.2020 in which also this Court held that the party seeking condonation of delay would need to explain the delay properly on the basis of the grounds, which are reasonable and plausible.

21. There is no dispute on the legal propositions as laid down in the aforesaid judgments. The condonation of delay or rejection of the application for condonation of delay depends on various factors. It differs from case to case, depending on the cause shown and its sufficiency. The Court might not

have been satisfied with the cause shown or that the said cause was not sufficient in the judgments cited. The cause shown must be sufficient and there should be no negligence or inaction on the part of the applicant and no lack of bonafides. There is also no dispute that the law of limitation is to be applied even if it may harshly affect the rights of the parties. But every case depends on the facts of its own case. The delay of one day in many cases may be fatal and may not be condoned whereas the delay of a reasonable period in many cases on being found due to sufficient cause may be condoned. So one judgment cannot be necessarily applied to the facts of the other case. It depends upon the sufficiency of the cause shown and satisfaction of the cause being sufficient.

22. In the present case, we are satisfied that the cause shown is sufficient. The delay deserves to be condoned.

23. The delay is condoned. I.A.No.1 of 2025 stands allowed.

24. List the appeal for admission along with the other pending applications.

RAVI NATH TILHARI,J

MAHESWARA RAO KUNCHEAM,J

Dated: 23.04.2026
Note: L.R. copy be marked
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THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

I.A.No.1 of 2025
in
APPEAL SUIT NO: 170/2005

Dated: 23.04.2026
Note: L.R. copy be marked
B/o.
AG