



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

[3457]

MONDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

**THE HONOURABLE SRI JUSTICE HARINATH.N
CIVIL REVISION PETITION NO: 355/2021**

Between:

1. P NARSIMHA CHOUDARY @ NARASIMHA RAO CHOWDHARY (DIED),
DIED
2. VAKALAPUDI RAJABABU, , S/O. NARAYANAMURTHY, HINDU, AGED
ABOUT 47 YEARS, BUSINESS, R/O. REVELLAPALEM,
MADHURAWADA, VISAKHAPATNAM,

...PETITIONER(S)

AND

1. GUNNAM SURYA RAO, S/O. VEERAVENKATA SATYANARAYANA,
HINDU, AGED ABOUT 58 YEARS, R/O. DOOR NO. 8-44-1, NEAR CBI
OFFICE, VISAKHAPATNAM.
2. SRI MALLIPUDI PADMAVATHI, W/O. SRI. M.V.V. KRISHNA CHOWDARY,
HINDU, AGED ABOUT 40 YEARS, VADALAKUNTA VILLAGE,
GOPALAPATNAM MANDAL, WEST GODAVARI DISTRICT..
3. KONERU SURESH, S/O. SRI. BAPAYYA, HINDU, AGED ABOUT 45
YEARS, R/O. DOOR NO. 10-28-4/20, B-3, WALT AIR UPLANDS,
VISAKHAPATNAM. ... RESPONDENTS/RESPONDENTS/DEFENDANTS
4. SMT PENUMARTHI SRIDEVI, W/O LATE NARSIMHA RAO, HINDU,
AGED ABOUT 59 YEARS, RESIDENT OF H.NO. 7-147,
REVALAPALEM, MADHURAWADA, VISAKHAPATNAM.
5. PENUMARTHI SRIDHAR, S/O LATE NARSIMHA RAO, HINDU, AGED
ABOUT 35 YEARS, RESIDENT OF H.NO. 7-147, REVALAPALEM,
MADHURAWADA, VISAKHAPATNAM.

...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 to allow this revision petition by setting aside the orders dated 26-02-2018, passed in I.A.692/2016, in O.S.No. 1644/2005, on the file of the VI Additional Senior Civil Judge, Visakhapatnam, and pass

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased

Counsel for the Petitioner(S):

- 1.
2. A RAVEENDRA BABU

Counsel for the Respondent(S):

1. NARISINGA RAO AMPOLU

The Court made the following:

THE HONOURABLE SRI JUSTICE HARINATH.N**CIVIL REVISION PETITION No.355 of 2021****ORDER:**

1. The petitioners are aggrieved by the order dated 26.02.2018 passed by the learned VI Additional Senior Civil Judge. Vishakapatnam in I.A.No.692 of 2016 in O.S.No.1644 of 2005, whereby the learned Judge dismissed the petition filed by the petitioners seeking condonation of delay of 1045 days in filing applications under Order IX Rule 9 CPC, Order XXII Rule 9 CPC, and Order XXII Rule 3 CPC.
2. The learned counsel for the petitioners submits that the suit was initially filed by the plaintiffs seeking the relief of Specific Performance of the Agreement dated 30.12.1993. During the pendency of the suit, the first plaintiff passed away, and the second plaintiff is the brother-in-law of the first plaintiff. It is submitted that, on account of the inaction on the part of the learned Advocate appearing for the petitioners before the learned trial Court, the applications for bringing the legal representatives of the deceased first plaintiff on record could not be filed. It is stated in the affidavit that the learned Advocate appearing for the petitioners before the learned trial Court had obtained the signatures of the petitioners on affidavits, and the petitioners were under the *bonafide* impression that the learned Advocate had filed the necessary applications for pursuing the suit on merits in place of the deceased first plaintiff.

3. It is submitted that by the time the petitioners came to know that the suit had abated on account of inaction on their part in taking steps within time, a delay of 1045 days had already occurred, and thereafter, the petitioners engaged another learned Advocate for taking necessary steps. The said I.A. filed by the petitioners was dismissed by the learned trial Court primarily on the ground that the suit had also been dismissed for non-prosecution. Though the first plaintiff had passed away in the year 2013, the legal heirs of the first plaintiff did not take appropriate steps within the prescribed time, and the reasons assigned for seeking condonation of delay were found to be unconvincing. On these grounds, the application filed by the petitioners was dismissed.
4. It is submitted that by the time the petitioners came to know that the suit had abated on account of their failure to take steps within the prescribed time, a delay of 1045 days had already occurred, and thereafter, they engaged another learned Advocate to take necessary steps. The I.A. filed by the petitioners was dismissed by the learned trial Court primarily on the ground that the suit had also been dismissed for non-prosecution. Though the first plaintiff had passed away in the year 2013, the legal heirs of the first plaintiff did not take appropriate steps within the prescribed time, and the reasons assigned for seeking condonation of delay were found to be unconvincing. On these grounds, the application filed by the petitioners was dismissed. It is further submitted that the petitioners are entitled to contest the suit, as

substantial rights are involved insofar as their claim with reference to the agreement is concerned.

5. The learned counsel appearing for the respondents submits that the second plaintiff, being the brother-in-law of the deceased first plaintiff, was well aware of the demise of the first plaintiff. However, the second plaintiff did not exhibit due diligence in following up the suit, which ultimately resulted in the dismissal of the suit on 28.10.2014.
6. Heard the learned counsel for the petitioners and the respondents. Perused the material on record.
7. The petitioners have stated the circumstances for causing the delay. These circumstances were beyond their control, and they had to necessarily rely on the advice and actions of their learned Advocate before the learned trial Court. The petitioners cannot be penalized for the inaction of their learned Advocate appearing before the trial Court. Therefore, this Court deems it appropriate to set aside the order dated 26.02.2018 passed in I.A. No.692 of 2016 in O.S. No.1644 of 2005 by the learned VI Additional Senior Civil Judge, Visakhapatnam. Consequently, the delay of 1045 days is condoned, and the learned trial Court shall entertain the application seeking to set aside the abatement as well as the application seeking to bring the legal representatives on record.
8. With the above observation, the Civil Revision Petition is disposed off. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE HARINATH.N

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THE HONOURABLE SRI JUSTICE HARINATH.N

CIVIL REVISION PETITION No.355 of 2021

Dated 20.04.2026

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