

HIGH COURT FOR THE STATE OF TELANGANA**MAIN CASE: A.S.No.13 of 2026****PROCEEDING SHEET**

Sl. No	DATE	ORDER	OFFICE NOTE
	19.02.2026	<u>KL,J & BRMR,J</u> <u>I.A.No.1 of 2026</u> Heard Sri Vedula Srinivas, learned senior counsel representing Sri V.Gopala Rao Amancharla, learned counsel for the petitioner and Sri Anup Koushik Karavadi, learned counsel for the respondents. This application is filed to condone the delay of 348 days in preferring the appeal challenging the judgment and decree dated 01.08.2024 passed in O.S.No.175 of 2017 by the learned Principal District and Sessions Judge, Sanga Reddy. In paragraph No.12 of the affidavit filed in support of the said application, petitioner contended that the impugned judgment is not on consideration of the entire evidence both oral and documentary. He was advised to file a review petition before the trial Court and accordingly, he has filed I.A.No.2660 of 2024 under Order XLVII Rule1 read with Section 114 of CPC on 12.11.2024 to review the said judgment and decree. The same was dismissed on 17.12.2025. The respondents have already filed an Execution Petition <i>vide</i> E.P.No.37 of 2025, the same is coming for attachment of the properties of the petitioner herein for sale. The delay in filing this Appeal is 348	

		days and the same is due to pendency of the review petition before the Trial Court till 17.12.2025. Therefore, the said delay is neither willful nor want on. The respondents filed counter contending that the grounds raised by the petitioner in condoning the delay are not <i>bona fide</i>, he has not mentioned 'sufficient cause' and not explained day to day delay of 348 days in preferring the said appeal. There is delay at every stage, it is unexplained and willful. We have heard Sri Vedula Srinivas, learned senior counsel appearing for the petitioner and Sri Anup Koushik Karavadi, learned counsel appearing for the respondents at length. Learned counsel for the respondents placed reliance on the principle laid down by the Apex Court and Calcutta High Court in the following judgments: 1. Pundlik Jalam Patil (Dead) by LRs vs. Executive Engineer, Jalgaon Medium Project and another – [(2008) 17 SCC 448] 2. Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and Others – [(2013) 12 SCC 649] 3. Sridevi Datla Vs. Union of India and Others – [(2021) 5 SCC 321] 4. Parthapati Subba Reddy (died) by Legal representatives and Others Vs. Special Deputy Collector (LA) – [(2024) 12 SCC 336] 5. Omkar Tradecomm LLP and Others Vs. Mayank Agarwal and Others – [(2024) SCC Online Cal 2529] 6. Thirunagalingam Vs. Lingeswaran and another	
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		– [(2025) SCC Online SC 1093] In Pundlik Jalam Patil supra the delay is 1724 days. In Esha Bhattacharjee supra the delay is 2449 days. In Parthapati Subba Reddy case the delay is 5659 days. Therefore, the facts of the said cases are slightly different to the facts of the present case. As discussed supra, it is the specific contention of the petitioner herein that the learned Trial Court decreed the said suit on 01.08.2024. He has filed the review application on 12.11.2024 itself. The respondents have filed counter in the said review petition on 02.04.2025. The same was taken on file on 02.05.2025. Thereafter, the said review petition was pending before the Trial Court and it was dismissed only on 17.12.2025. However, referring to the docket proceedings, the learned counsel for the respondents would contend that there is delay on the part of the petitioner herein in seeking the disposal of the said review application. It is the specific contention of the petitioner herein that he has filed Execution Application, I.As and CRPs. This Court granted protection for three weeks. They have specifically mentioned the details of the I.As and CRPs filed. As discussed supra, the aforesaid suit is for recovery of money basing on pro-notes. The learned Trial Court decreed the said suit. Respondents have already filed E.P <i>vide</i> E.P.No.37 of 2025. During the course of hearing, it is brought to the notice of this Court that learned Executing Court has already issued attachment orders.	
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		is no consideration of the same by the Trial Court in the impugned judgment and decree, therefore, he seeks blanket stay. Whereas, learned counsel appearing for the respondents would contend that rejoinder filed by the respondents – plaintiffs is only by way of clarification to the written statement filed by the petitioner herein. Petitioner has categorically admitted his signature and writing on Ex.A25 and all the pro-notes. Therefore, the petitioner is not <i>bona fide</i> in prosecuting the present appeal and he is adopting delay tactics. In support of the aforesaid contentions, he has placed reliance on the principle laid down by the Apex Court in <i>Lifestyle Equities C.V. and Others Vs. Amazon Technologies Inc. – [MANU/SC/1388/2025 = 2025 INSC 1190]</i> and <i>also in Nandkishore Lalbhai Mehta Vs. New Era Fabrics Private Limited and Others – [(2015) 9 SCC 755]</i>. In Lifestyle Equities supra, the Apex Court had an occasion to consider the scope and ambit of Order XLI more particularly Order XLI Rule 1 Sub Rule 3 and Order XLI Rule 5 Sub Rule 5 and summarize certain conclusions in paragraph Nos.134 and the same are extracted below: “134. We summarize our final conclusion on the grant of benefit of stay of execution of a decree by an appellate court in term of Order XLI as under: - (I) Order XLI Rule 5 contains the provision for the grant or refusal of stay of execution of the decree by the appellate court under the Code of Civil Procedure. It categorically stipulates that mere filing of an appeal against an order of execution, shall not ipso facto operate as stay of	
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		proceedings. Any execution proceeding or an order therein, shall be stayed only if a specific, reasoned order granting such stay is passed by the appellate court, after proper application of mind. (II) For the grant of stay of execution of a decree in terms of Order XLI, a prayer to such effect has to be specifically made to the appellate court and the appellate court has the discretion to grant an order of stay or to refuse the same. (III) Order XLI Rule 5(3) of the Code of Civil Procedure provides for satisfaction regarding sufficient cause as a pre-condition for granting benefit of stay of execution of decree, and it casts an obligation upon the appellate court to record its satisfaction for stay of execution such decree. (IV) The power of the Appellate Court to order stay of execution of the decree is circumscribed and made subject to the existence of a “sufficient cause” in favour of the Appellant being shown. In order to ascertain whether a “sufficient cause” exists for the grant of stay of execution of a decree under Order XLI of the CPC, the appellate court as per Sub-rule (3) of Rule 5 is required to examine:- (i) Whether there will be substantial loss to the party applying for stay; (ii) Whether the application has been made without unreasonable delay; and (iii) Whether security has been given by the applicant for due performance of the decree. (V) For the grant of stay of execution of the decree, the appellate court is required, after perusing the materials on record, to assign reasons for its satisfaction regarding the existence of a “sufficient cause”. Such reasons should be cogent and adequate. The reasons assigned must indicate the necessity for the status quo prevailing on the date of the decree and/or the date of making of the application for stay, to continue by granting stay, and not merely the reasons why stay should be granted. (VI) Although, Order XLI Rule 5 of the CPC, uses the word “shall”, yet a combined reading of the sum and substance	
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		of Rule(s) 1(3) and 5(5) would reveal, that for the grant of stay of execution, it is not mandatory for the appellate court to impose a condition for deposit of the amount in dispute. The aforesaid provisions make it abundantly clear that the appellate court, for the grant of stay of execution, has a discretion to impose a condition of deposit of the amount depending on the facts and circumstances of each case. (VII) A deposit is not a condition precedent for an order of stay of execution of the decree by the appellate court. The only guiding factor and statutory mandate, for the grant of such stay of execution as indicated in Rule 5, is the existence of “sufficient cause” in favour of the Appellant, on the availability of which the appellate court would be inclined to pass an order of stay. (VIII) For the grant of benefit of an unconditional stay of execution of a decree, an exceptional case has to be made out before the appellate court. This discretion of the appellate court to grant an unconditional stay of execution of decree must not be exercised arbitrarily. It must be exercised sparingly and only if an exceptional case is made out for such stay in view of the peculiar facts and attending circumstances of the case before it. (IX) A lodestar for bringing a case within the purview of “exceptional case” for the purpose of granting benefit of unconditional stay of the execution of money decree by the appellate court would be, if the money decree in question: - (i) is egregiously perverse; (ii) is riddled with patent illegalities; (iii) is facially untenable; and/or (iv) such other exceptional causes similar in nature. (X) For the purpose of the grant or refusal of stay of execution of the decree Under Rule 5 of Order XLI, it is immaterial whether the decree is a money decree or any other decree. The language couched in the said provision is very clear. Order XLI, Rule 5 of the makes no distinction between a money decree and other decrees, and the said provision applies with full rigour in both	
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		instances. Yet as a rule of prudence and established practice evolved over a period of time, no stay of execution of a money decree should be granted, except on the condition that the decretal amount be deposited in the court. However, such condition for deposit cannot be said to be mandatory and non-prescription thereof does not operate as a bar to staying the execution of a money decree. (XI) There is no provision Under Order XLI Rule 5 of the Code of Civil Procedure imposing a mandate to deposit cash security as the only mode of security for execution of the decree. Security, for the purpose of the said provision, can be in the shape of property, bond and or in the form of an appropriate undertaking from the appellant to abide by the decree, seeking stay of execution.” In Nandkishore Lalbhai Mehta supra, the Apex Court had an occasion with regard to consideration of evidence with regard to facts not pleaded etc. However, the said aspect can be considered while hearing the appeal finally. Learned senior counsel for the petitioner would further contend that respondents did not even take steps to amend the pleadings. As discussed supra, the suit is filed for recovery of money and <i>vide</i> impugned judgment learned Trial Court decreed the said suit and directed the petitioner herein to pay amount of Rs. 2,34,60,000/- and subsequent interest has awarded on the principal amount of Rs.1,38,00,000/- at the rate of 12% from the date of the suit till the date of decree and at the rate of 6% from the date of the decree till the date of realization. It is also apt to note that present appeal is continuous to the suit i.e., O.S.No.175 of 2017. It is	
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		also apt to note that there is delay of 348 days in preferring the appeal. Today we have condoned the said delay by allowing I.A.No.1 of 2026. In the light of the aforesaid submissions, it is apt to note that several grounds and contentions raised by the petitioner and respondents can be considered at the time of hearing of the Appeal, finally. It is not an exceptional case to grant blanket stay. In the light of the same, there shall be stay of operation of the impugned judgment and decree on the condition that the petitioner depositing 50% of the decretal amount to the credit of the suit in Trial Court within six weeks from the date of receipt of a copy of this order. <u>A.S.NO.13 of 2026</u> List on 21.04.2026. In the meanwhile, Registry is directed to call for the original record in O.S.NO.175 of 2017 from the learned Principal District and Sessions Judge, Sanga Reddy. <u>KL,J</u> <u>BRMR,J</u> Dua/PLV	
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