



**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY ,THE FIRST DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE DR. JUSTICE RADHA RANI

I.A.Nos. 01 AND 02 OF 2022

IN

SECOND APPEAL NO: 801 OF 2000

I.A.No. 1 of 2022

Between:

1. Bakam Lingaiah, S/o. Rajaiah, Age: 53 years, Occ: Singareni Employee,
2. Bakam Pocham, S/o. Rajaiah, Age: 48 years, Occ: Singareni Employee,
3. Bakam Shankaraiah, S/o. Rajaiah, Age: 48 years, Occ: Singareni Employee,

All are R/o. Srirampur, Mancheria Mandal and District.

...Petitioners/Appellants

AND

Mekala Ramulu, S/o. Narsaiah, Age: 48 years, Occ: Singareni Employee, R/o.
Q.No. 201-D, Srirampur Colony, Mancheria Mandal and District.

...Respondents/Respondents

IA NO: 1 OF 2022

Petition under Section 5 of Limitation Act, praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of 56 days for filing of restoration and set aside the dismissal order on 16.07.2022, petition filed under Order 42 Rule 1 R/w Order 41 Rule 19 & Section 151 of CPC.

IA NO: 2 OF 2022

Petition under Order 42 Rule 1 r/w. Order 41 Rule 19 & Section 151 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to set aside the dismissal order for non-prosecution dated 12.04.2022 in SA No. 801 of 2000 and restore the same.



Counsel for Appellants : Sri K. Mallikarjun

Counsel for the Respondent : Sri Adapa Ramu

The Court made the following: ORDER

I.A.No.01 of 2022 is filed by the petitioners/appellants to condone the delay of (56) days in filing restoration petition to set aside the dismissal order dated 12.04.2022 passed in S.A No.801 of 2000.

I.A.No.02 of 2022 is filed to set aside the dismissal order for non-prosecution, dated 12.04.2022 passed in S.A.No.801 of 2000 and to restore the same.

Heard the learned counsel for the petitioners and the learned counsel for the respondent.

Learned counsel for the petitioners/appellants submitted that the respondent filed the suit for declaration of title and recovery of possession vide O.S.No.260 of 1987 on the file of the District Munsiff at Luxettipet and the trial Court decreed the suit on 29.03.1994. The petitioners challenged the decree before the Senior Civil Judge, at Asifabad vide A.S No.12 of 1994. The First Appellate Court also confirmed the lower Court decree on 09.08.2000. The same was challenged by the petitioners before this Court vide S.A.No.801 of 2000. They engaged a counsel by name P.V.Narayana Rao, Advocate, in the year 2000 in the second appeal. Due to his old-age and after Covid period, the learned counsel was not in touch with them. Recently, the respondent tried to interfere into their land and disclosed about the dismissal of the second appeal for non-prosecution and dispatched the dismissal order copy on 16.07.2022. Then only they came to know about the dismissal of the second appeal and approached their counsel and found that he was unable to move due to old-age problems and was not able to talk properly. On their request he gave N.O.C to them.

For the said reason, there was a delay of (56) days in filing the restoration petition to set aside the dismissal order dated 12.04.2022 and prayed to condone the delay.

Learned counsel for the respondent, on the other hand, contended that only to protract the proceedings, the above application was filed by the petitioners. There were no valid grounds to allow the application. The second appeal was pertaining to the year 2000. Except filing the appeal the petitioners were never in touch with their



2022:TSHC:69250

counsel for over a period of more than two decades, which would clearly show their negligence in pursuing the matter. It was the duty of the petitioners to know about the status of the case from time to time. This Court rightly dismissed the second appeal on 12.04.2022 due to non-prosecution. He further submitted that there were concurrent findings of the courts below. There were no substantial questions of law involved for consideration. The applications were devoid of merits and prayed to dismiss the applications.

Considering the submissions of the learned counsel for the petitioners/appellants that the counsel engaged by them could not represent the matter due to his old-age, for which the second appeal was dismissed for non-prosecution on 12.04.2022 and also considering that it was an old matter of more than two decades, it is considered fit to condone the delay of (56) days in filing the restoration petition to set aside the dismissal order on payment of costs of Rs.2,000/- to the respondent through their counsel within a period of one (01) week from the date of receipt of a copy of this order and on condition that the counsel for petitioners would get ready to argue the second appeal without taking any further adjournments.

In the result, the petitions are allowed subject to payment of costs of Rs.2000/- within a period of one (01) week from the date of this order and on condition that petitioners would get ready to argue the second appeal without taking any further adjournments.

Sd/- K. SRINIVASA RAO
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Senior Civil Judge, Asifabad.
2. The District Munsiff, Luxettipet.
3. One CC to Sri K. Mallikarjun, Advocate [OPUC]
4. One CC to Sri Adapa Ramu, Advocate [OPUC]
5. **Two CD Copies**

Njb/gh

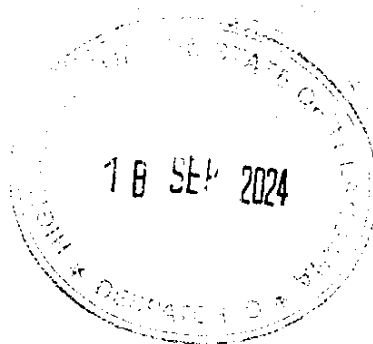
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2022:TSHC:69250

HIGH COURT

DATED:01/08/2024



ORDER

I.A.Nos. 1 & 2 of 2022

In

SA.No.801 of 2000

ALLOWING BOTH THE I.A's

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