

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

FRIDAY, THE FIFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA

CIVIL REVISION PETITION Nos: 4566 OF 2013 & 2845 of 2024

C.R.P.No.4566 of 2013

Petition under Article 227 of the Constitution of India, against the Order Dated 05.07.2013 passed in I.A.No.442 of 2012 in O.S.No.24 of 2008 on the file of court of the I Additional District Judge, at Nalgonda.

Between:

Bondada Perayya Guptha, S/o. Peddiraju, Business R/o. Plot No.1, Road No.1, Haripuri Colony, Hyderabad.

...Petitioner/Petitioners (Defendants 3 & 4)

AND

1. Vongeti Srinivasa Reddy, S/o. Raghava Reddy, Agriculture R/o. Thorur Village, Hayathnagar Mandal, Ranga Reddy District.
2. Vongeti Ranga Reddy, S/o. Srinivas Reddy, Agriculture R/o. Thorur Village, Hayathnagar Mandal, Ranga Reddy District.

...Respondents/Petitioners (Defendants 3 & 4)

3. Uppala Ramesh, S/o. Seetha Ramaiah, Business R/o. Flat no. 403, Vijetha Vihar, Hanuman Nagar, Chaitanyapuri, Hyderabad.
4. Vadlamudi Rama Koteswara Rao,, S/o. Venkaiah, Employee R/o. Laxmipuram village, Thiruvu Mandla, Krishna district.

...Respondents/ Respondents 2 & 3 (Defendants 1 & 2)

I.A. NO: 1 OF 2013(CRPMP. NO: 6209 OF 2013)

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 to grant stay of all further proceedings in OS.No.24/2008 on the file of the 1st Additional District Judge at Nalgonda pending disposal of the CRP.

Counsel for the Petitioner: SRI PRABHAKAR PERI

Counsel for the Respondents: SRI KARRI MURALI KRISHNA

C.R.P.No.2845 of 2024

Petition under Section 115 of Civil Procedure Code against the Order dated 04.04.2013 Passed in I.A.No.441 of 2012 in I.A.NO.341 of 2011 in O.s.No.24 of 2008 on the file of the Court of the I Additional District Judge at Nalgonda.

Between:

Bondada Perayya Guptha, S/o Peddiraju, aged about 49 years, Occupation Business, R/o Plot No.1, Road No.1, Haripuri Colony, Hyderabad.

...Petitioner/ Petitioner(Respondent No.1/Plaintiff)

AND

1. Vongeti Srinivasa Reddy, S/o Raghava Reddy, aged about 61 years, Occupation Agriculture, R/o. Thorur Village, Hayathnagar Mandal, Ranga Reddy District
2. Vongeti Ranga Reddy, S/o Srinivas Reddy, aged about 27 years, Occupation Agriculture, R/o. Thorur Village, Hayathnagar Mandal, Ranga Reddy District.

...Respondents/Petitioners(Defendants 3 & 4)

3. Uppala Ramesh,, S/o Seetha Ramaiah, aged about 45 years, Occupation Business, R/o Flat No.403, Vijetha Vihar, Hanuman Nagar, Chaitanyapuri, Hyderabad
4. Vadlamudi Rama Koteswara Rao,, S/o Venkaiah, aged 60 years, Occupation employee R/o Laxmipuram Village of Thiruvu Mandal, Krishna District

...Respondents/ Respondents No.2 & 3 (defendants 1 & 2)

I.A. NO: 1 OF 2013(CRPMP. NO: 6720 OF 2013)

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 condone the delay of 69 days in filing the CRP against the orders passed in I.A.No.441 of 2012, in I.A.No.341 of 2011 in O.S.No.24 of 2008 on the file of the I Additional District Judge, Nalgonda.

I.A. NO: 3 OF 2013(CRPMP. NO: 24715 OF 2013)

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 to grant stay of all further proceedings in O.S. No.24 of 2008 on the file of the I Additional District Judge at Nalgonda pending disposal of the CRP.

Counsel for the Petitioner: SRI PRABHAKAR PERI

Counsel for the Respondents: SRI KARRI MURALI KRISHNA

The Court made the following: COMMON ORDER

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

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

CIVIL REVISION PETITION Nos.4566 OF 2013 & 2845 OF 2024

Date: 05.12.2025

Between:

Bondada Perayya Guptha

...Petitioner

AND

Vongeti Srinivasa Reddy and Others

...Respondents

COMMON ORDER:

Heard ***Sri Prabhakar Peri***, learned counsel for the revision petitioner and ***Sri Karri Murali Krishna***, learned counsel for the respondent Nos.1 and 2 in the revision petition.

2. Since, both the Civil Revision Petitions arising out of the same suit i.e., I.A.No.442 of 2012 in O.S.No.24 of 2008 and I.A.No.441 of 2012 in I.A.No.341 of 2011 in O.S.No.24 of 2008 on the file of learned I-Additional District Judge, Nalgonda OS No.24 of 2008, they are being disposed of by this Common order.

3. Both the interlocutory applications i.e., I.A.No.442 of 2012 and I.A.No.441 of 2012 and were filed under Section 5 of the Limitation Act, 1963, wherein I.A.No.442 of 2012 was seeking condonation of delay of 501 days in filing the petition for setting aside the ex parte preliminary decree, dated **31.08.2010**; I.A.No.441 of 2012 is filed for condonation of 63 days delay in filing petition for setting aside the ex parte final decree dated **11.11.2011**. Though both revisions are filed against the orders passed in both the interim applications, the contents of the petitions in both the cases are one and the same and can be dealt with together.

4. Brief facts of the case are that the petitioner herein filed the Interim Applications under Section 5 of Limitation Act, 1963, on the ground that the petitioner could not contest the final decree proceedings as they were not served with the notice in the said proceedings, as such, the trial Court passed an ex parte decree dated 11.11.2011 and order for sale of the suit schedule property for recovering the amount due to respondent Nos.1/plaintiff.

5. Learned counsel for the petitioner contended that on 03.02.2012, the ~~respondents~~ herein have affixed paper ex parte

decree copy on the wall of the suit schedule property and the petitioner herein came to know about the passing of ex parte decree order on 09.02.2012 through his servant working in his poultry farm, thereafter, he enquired with his counsel and on perusal of the record he came to know that an ex parte decree was passed as well as the final decree.

6. Since the time for setting aside the ex parte decree is taken from the date of knowledge, i.e., 09.02.2012, which is within 30 days, but as the written statement was already filed, for filing a petition for setting aside the decree from the date of 09.02.2012 and after deducting 30 days, the actual delay caused is 501 days.

7. Learned counsel for the petitioner contended that the petitioner purchased the property for valuable consideration after verifying the revenue records, other connected, however, no notice were served upon the petitioner about the case proceedings, thereby the petitioner failed to contest the suit which was neither willful nor negligent, but due to the above said reasons of non-service of summons and notices in the above proceedings, the petitioner could not contest the matter. It is further contended that as they have shifted their residence to Hyderabad in the year 2009

and since then they are residing in Hyderabad city, as such service of notice got published in newspaper and even shifting of address by the defendant was also known to the respondent No.1 inspite of that they have furnished the wrong old address and obtained the ex parte decree.

8. Before the trial Court, learned counsel for the respondents filed a counter and submitted that initially the respondent No.1/plaintiff filed I.A.No.1418/2008 to implead the petitioners/D-3 and D-4 and in the above proceedings the summons were received by the petitioners/D-3 and D-4 at the same address which is now being disputed by the petitioners and moreover the said address was furnished by the respondent No.1/plaintiff through the registered sale deeds which belong to the petitioners/D-3 and D-4 which are marked Ex.A-21 and A-22 and the said address was furnished by the petitioners/D-3 and D-4 and on the basis of the said address the respondent No.1/plaintiff issued summons.

9. The main contention of the petitioner before this Court is that allowing of applications by the trial Court was questioned for the reason that though summons were served on the respondent/defendant Nos.1 and 2 being over the subsequent

purchase, the learned trial Court without considering the same that inspite of service of the summons they did not choose to appear before the trial Court and learned counsel for the respondent vehemently opposed and contended that though the summons were issued under Order 1 Rule 10 application to the proposed respondent Nos.1 and 2 herein, but the contention is that taking advantage of similar name the same was not served on the petitioner and it was served upon some other Srinivas Reddy and that service was not made and they came to know about the same only later. As such they have no knowledge about the said passing of preliminary decree and final decree.

10. The main contentions of the defendant Nos.1 and 2 are that the petitioner herein has the knowledge about pending of the suit and also filed written statements, as the said land being subsequently purchased and having purchased during the pendency of the suit, hence, they cannot be treated as bonafide purchasers and that the contention of the petitioner is that they have lent huge amount of Rs.25,34,000/- and they are unnecessarily being subjected to hardship since the year 2009 and to avoid the liability the respondents have already sold the property to the present respondent No.1 and 3 i.e., defendant No.3 and 4.

11. Having heard the contentions and rival contentions of both the parties and perused the material placed on record and perused the order passed by the trial Court, the trial Court having considered the judgment passed in **Collector, Land Acquisition, Anantnag and other v. Mst. Katiji and others**¹, the principle laid down in the said judgment, that every day delay to be explained does not mean that a pedantic approach should be made and applying the said principle it was further held that, though the delay of each and every day need not be explained and petitioner should be diligent to pursue the cause, and further it is always better to decide the matter on merits on that the delay was condoned.

12. It is observed that notices were served in the I.A., the respondents therein did not choose to appear and the said I.A. was allowed on 10.07.2009 and subsequently, once again it shows that notices were issued after filing the fair copy and the same could not be served and as such the trial Court ordered for substitute service and inspite of the paper publication the respondents therein did not choose to appear, as such an ex parte preliminary decree was passed. The respondents have knowledge about the pendency of

¹ AIR 1987 SC 1353

the impleading application, though it is contended that the notices were not served on the original V. Srinivas Reddy, but it was served on some other Srinivas Reddy. It is submitted that initially respondent No.1/plaintiff filed I.A.No.1418/2008 to implead the petitioners/defendants No.D3 and D4 and in the above proceedings the summons were received by the petitioners/defendants No.D3 and D4 and it is contended that the address which is being disputed by the petitioners was the address which was furnished by the respondent/plaintiff and mentioned in the registered sale deeds which belong to the petitioners/defendant Nos.D3 and D4.

13. The petitioner contended that as they have shifted their residence to Hyderabad in the year 2009 itself, since then till now they are residing in Hyderabad city, but it is not the case of the respondents that respondent Nos.3 and 4 never resided at the said address which is shown in said sale deed.

14. The learned counsel for the respondent has cited the following judgments:

In Sonerao Sadashivrao Patil and another petitioners vs. Godawaribai Laxmansingh Gahirewar and others²

² AIR 1999 BOMBAY 235

"11. In this behalf a reference to the case of Collector, Land Acquisition, Anantnag v. Mst. Katiji reported in AIR 1987 SC 1353 is necessary. The Supreme Court has observed that the message with regard to liberal approach does not appear to have percolate down to all the other Courts in the hierarchy. The following guidelines should be borne in mind while interpreting the concept of sufficient cause :

- (1) Litigant does not stand benefited by lodging an appeal late;
- (2) Refusal to condone may result in meritorious matters being thrown out at the very threshold and the cause of justice being defeated;
- (3) In the matter of explanation of e very day's delay, pedantic approach should be avoided. Rational common sense pragmatic approach should be invariably adopted;
- (4) Substantial justice is to be preferred against technical flaws;
- (5) There is no presumption that delay is always deliberate;
- (6) Injustice is to be removed.

"12: The primariy function of a Court is to adjudicate the disputes between the contesting parties and to advance substantial justice. It is to be borne in mind that the rules of limitation are not made to harm the valuable rights of the parties.

Reference with profit can also be made to the case of N. Balakrishnan v. M. Krishna Murthy reported in (1998) 7 SCC 123 : (AIR 1998 SC 3222). The Supreme Court has observed that the rules of limitation are not meant to destroy the rights of the parties. They are meant to see that the parties do not resort to dilatory tactics. The Supreme Court has further observed that S. 5 of the Limitation Act does not say that the discretion given to the Court can be exercised only if delay is within a certain limit. Length of delay is not the matter, acceptability of explanation is the only criterion."

The Hon'ble Supreme Court in **N.Balakrishnan v.**

M.Krishnamurthy³ at paragraph No.9 held as:

³ (1998) 7 Supreme Court Cases 123

"It is axiomatic that condonation of delay is a matter of discretion of the court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to want of acceptable explanation whereas in certain other cases delay of very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in reversional jurisdiction, unless the exercise of discretion was on whole untenable grounds or arbitrary or perverse. But it is a different matter when the first court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower court."

On perusal of the judgment, it can be safely conclude that appellant Court would be free to consider the cause shown for the delay afresh and it is open to such appellant Court to come to its own finding even untrammelled by the conclusion of the lower Court.

15. Though, in the present case, admittedly notices were served on the respondent Nos.3 and 4 who are contesting parties, respondent Nos.1 and 2, who are the main contending defendants, who said to have purchased the land and executed documents, appears that they not only failed to prosecute before the trial Court and the defendants Nos.3 and 4 did not participate though notice

has been served, but nothing has been placed before the trial Court that the said summons were not served upon them, but the said contention that the petitioner never used to sign in Telugu and respondent No.3 never used to sign in Telugu was not raised before the trial Court.

16. In the absence of the same, the liberal approach which is taken by the learned trial Court in condoning the delay and the reasons which are shown, that it is always safe and better to decide the matter on merits in the interest of justice and so as to give an opportunity to the petitioner, and condoned the delay of 501 days and 69 days respectively, without considering the fact that said notices were already served and respondent Nos.3 and 4 did not choose to appear before the Court, shows that defendant Nos.1 and 2 did not contest the suit, except filing the written statement, which shows the conduct and approach of the defendants towards prosecuting their matter before the trial Court.

17. The said conduct ought to have been considered by the learned Judge while allowing the application. Hence, the findings of the trial Court in condoning the delay is not based on any facts which leads to take a lenient view, but inspite of the service of

notice the respondents did not choose to contest the suit nor defendant No.1 and 2 who are the vendors of the defendant Nos.3 and 4 and approaching the Court after 501 days cannot be entertained and the reason cited cannot be taken as sufficient cause for condoning the delay.

18. For the said reasons, this Court holds that the findings of the trial Court in condoning the delay on the face of it is an error committed by the trial Court and the said order need to be interfered with and the revision deserves to be allowed. Hence, the Civil Revision Petitions are allowed setting aside the orders passed by the learned trial Judge in I.A.No.442 of 2012 in O.S.No.24 of 2008 and I.A.No.441 of 2012 in I.A.No.341 of 2011 in O.S.No.24 of 2008.

Miscellaneous petitions, if any are pending, shall stand dismissed.

//TRUE COPY//

SD/- A.V.S. PRASAD
DEPUTY REGISTRAR

SECTION OFFICER

To,

1. The I Additional District Judge, at Nalgonda
2. One CC to SRI PRABHAKAR PERI, Advocate [OPUC]
3. One CC to SRI KARRI MURALI KRISHNA, Advocate [OPUC]
4. Two CD Copies

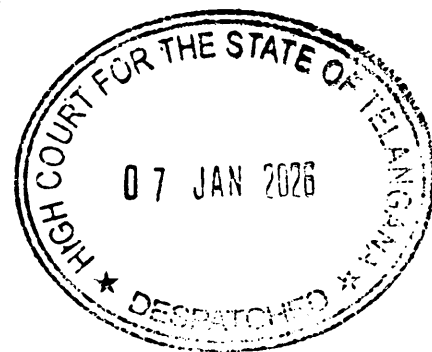

NVB/Sa

HIGH COURT

DATED:05/12/2025

COMMON ORDER

CRP.Nos.4566 of 2013 and 2845 of 2024



ALLOWING THE BOTH CIVIL REVISION PETITIONS

7MT
6/1/26