

HIGH COURT FOR THE STATE OF TELANGANA

**MAIN CASE: A.S.No.2717 of 2004
and TRAS.No.1 of 2025**

PROCEEDING SHEET

Sl. No	DATE	ORDER	OFFICE NOTE
	03.02.2026	<p><u>KL, J & BRMR, J</u></p> <p><u>I.A.Nos.1, 2 and 3 of 2026 in AS.No.2717 of 2004</u></p> <p>We have heard Sri G.V.Subrahmanyam, learned counsel for petitioner Nos.2 and 3, Sri L.Ravi Chander, learned Senior Counsel representing Sri Mayur Mundra, learned counsel for respondent No.10, Sri R.Dheeraj Singh, learned counsel for respondent No.12 and Ms.Vaishnavi, learned counsel for respondent Nos.1 and 3.</p> <p>I.A.No.1 of 2026 is filed to bring the proposed appellant Nos.10 and 11 in A.S.No.2717 of 2004 as LR's of the deceased appellant No.5.</p> <p>I.A.No.2 of 2026 is filed to condone the delay of 1445 days in filing the petition to set aside the abatement order.</p> <p>I.A.No.3 of 2026 is filed to set aside the abatement of appeal caused due to not bringing the legal heir on record within time, by impleading proposed appellant Nos.10 and 11 as the legal representative on record in A.S.No.2717 of 2004.</p> <p>It is specifically contended by the petitioners that petitioner No.2, after demise of appellant No.5 (husband of petitioner No.2) was constrained to leave</p>	

	<p>India and reside with her daughter in the United States of America. During his lifetime, appellant No.5 was attending to and prosecuting the present appeal. She was not conversant with the pendency or procedural requirements of the case. Owing to her residence abroad and lack of knowledge about the proceedings, she remained unaware of the fact that the appeal was listed for final hearing and that the legal representatives of the deceased appellant were required to be brought on record.</p> <p>She has further contended that it was only upon the intervention and assistance of her family members that she was made aware of the said fact of pendency of the present appeal, whereupon immediate steps were taken to file the present petitions. Thus, there is a delay in filing the present application to set aside the abatement order, to condone the delay and to bring the legal representatives of deceased appellant No.5 on record.</p> <p>Whereas Sri L.Ravi Chander, learned Senior Counsel representing Sri Mayur Mundra, learned counsel for respondent No.10 and Sri R.Dheeraj Singh, learned counsel for respondent No.12 would contend that petitioner Nos.2 and 3 are aware of pendency of the present proceedings. They have not explained day to day delay in filing the present application to condone huge delay of 1445 days in filing the application to set aside the abatement order. Counsel also placed reliance</p>	
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	<p>on the principle laid down by the Apex Court in (i) Madura Coats Private Limited, Papavinsam Mills Post, Vikramasingapuram, Ambasamudram Taluk Vs. The Presiding Officer, Industrial Tribunal, Chennai and others – [2015 SCC OnLine Mad 8983], (ii) Mrinmoy Maity Vs. Chhanda Koley and others – [2024 SCC OnLine SC 551], (iii) Thirunagalingam Vs. Lingeswaran and another – [2025 SCC OnLine SC 1093], (iv) Union of India and another Vs. Jahangir Byramji Jeejeebhoy (D) Through His Lr – [2024 SCC OnLine SC 489], (v) Balwant Singh Vs. Jagdish Singh and Others – [MANU/SC/0487/2010] and (vi) Binod Pathak and others Vs. Shankar Choudharay and others –[2025 (5) ALT (SC) 56 (D.B)].</p> <p>In the light of the said submissions, it is apt to note that appellant No.5 along with other appellants preferred the present appeal challenging the judgment and decree dated 29.03.2004 in O.S.No.71 of 1999 passed by the learned Principle District Judge, Ranga Reddy District, L.B.Nagar, Hyderabad. He died on 25.08.2021.</p> <p>It is also apt to note that appellants herein have filed a suit in O.S.No.319 of 2015 [old O.S.No.754 of 2007] against the respondents and others for recovery of possession and also for cancellation of registered agreement of sale deed document No.767/1966 dated 19.12.1966. The said suit was dismissed on 06.09.2023. Therefore, appellants preferred an appeal vide A.S.No.3</p>	
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of 2023. The same was transferred to this Court and re-numbered as TRAS.No.1 of 2025.

In the said suit, in the trial Court itself, legal heirs of appellant No.5 were brought on record. The same is also pending.

As discussed supra, suit in O.S.No.71 of 1999 filed by respondent Nos.1 to 3 herein against the appellants herein is for declaration and perpetual injunction in respect of suit schedule property. Admittedly, there is delay in filing the application to set aside the abatement order and also to bring the legal heirs of appellant No.5 on record. However, other appellants i.e., legal heirs of appellant Nos.1 and 2 and appellant Nos.3 and 4 are also on record and they are prosecuting the present appeal. Dismissing the present applications on the technical ground would not serve any purpose. Therefore, we are of the opinion that the delay can be condoned, the application filed by them to set aside the abatement order and legal representatives of respondent No.5 ought to be brought on record, so as to give them an opportunity of hearing.

Aforesaid judgments relied upon by Sri L.Ravi Chander, leaned Senior Counsel appearing for respondent No.10 are on different set of facts. There is no dispute with regard to the principle that condonation of delay is a negative exercise as it effectively negates the valuable right of the other side. But, in the present case, as discussed supra, legal heirs of appellants Nos.1

and 2 and appellant Nos.3 and 4 are prosecuting the present appeal, there will not be creation of any separate right to the legal heirs of appellant No.5.

We are of the view that petitioner Nos.2 and 3 have shown sufficient cause for condoning the delay.

In the light of the same, these three applications are allowed.

Registry is directed to carryout necessary amendments.

A.S.No.2717 of 2004

List on 19.02.2026 for hearing the appeal.

TRAS.No.1 of 2025

List on 19.02.2026 along with A.S.No.2717 of 2025.

KL, J

BRMR, J

Dua/PLV

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