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APHC010296122026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3331]**
(Special Original Jurisdiction)

FRIDAY, THE 16th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION NO: 2171/2026

Between:

1. KATAMREDDY VAMSI KRISHNA REDDY,, S/O. LATE SRINIVASULU REDDY, AGED ABOUT 49 YEARS RIO. KALLURUPALLI VILLAGE, NELLORE RURAL MANDAL, SPSR NELLORE DISTRICT- 524003

...PETITIONER

AND

1. SAILESH LUNANI, S/o. Sri Manohar Gopal Lunani, Hindu, aged about 48 years, Occ. Business, Rio. Lunani Buildings No.1, Sathavahana Nagar, Sanivarapupeta Eluru-534003, West Godavari.

...RESPONDENT

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 the above named petitioner beg to present the above revision questioning Order and Decree dated 23-01-2026 passed in EA.no. 49 of 2025 in EP.No. 160 of 2017 in OS.No. 92 of 2014 on the file of the court of the I Additional District Judge, Nellore, SPSR Nellore District

IA NO: 1 OF 2026

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 stay of all further proceedings in E.P.No. 160 of 2017 on the file of court of I Additional District Judge, Nellore, SPSR Nellore District pending disposal of above revision

Counsel for the Petitioner:

1. KOMARA PRUDHVI RAJ

Counsel for the Respondent:

1. DAMARAJU MADHUSUDHAN VIJAY KUMAR

The Court made the following:

ORDER

The judgment debtor No.1, in E.P.No.160 of 2017, filed the above Civil Revision Petition (revision) against the order dated 23.01.2026 in E.A.No.49 of 2025 in E.P.No.160 of 2017 in O.S.No.92 of 2014 on the file of the learned I Additional District Judge, Nellore.

2. The respondent herein, being the plaintiff, filed suit O.S.No.92 of 2014 on the file of the learned Principal District Judge, West Godavari, Eluru, for recovery of amount with subsequent interest and the said suit was decreed on 22.06.2015. Thereafter, the respondent/decree holder filed E.P.No.160 of 2017 under Order XXI Rules 64 and 66 of the Code of the Civil Procedure, 1908 (C.P.C.), on the file of the learned Principal District Judge and later it was transferred to the learned I Additional District Judge, Nellore. In the execution petition, the judgment debtors were set ex parte on 20.03.2018. Judgment debtor No.1 filed E.A.No.49 of 2025 under Section 5 of the Limitation Act, 1963 (for short 'the Act') to condone the delay of 2738 days in filing the petition to set aside the ex parte order.

3. In the affidavit filed in support of the petition, it was contended, *inter alia*, that ten days before filing the petition, the friends of judgment debtor No.1 informed him about pendency of some cases against him and his brother, in the District Court. Thereafter, judgment debtor No.1 approached the Advocate and, on verifying the e-courts website, he came to know about the execution petition and filed a petition to condone the delay in filing a set aside ex parte order, dated 20.03.2018.

4. The respondent filed a counter and contended *inter alia* that judgment debtor No.1 filed vakalat on 12.08.2014 at Principal District Judge's Court, Eluru. Later, he neither filed a written statement nor contested the suit. The execution petition reached the final stage, and only to protract the litigation, the application was filed. No reasons were assigned to condone the delay.

5. The trial Court, by order dated 23.01.2026, dismissed the application. Aggrieved by the same, the above revision was filed.

6. Heard Sri Komara Prudhvi Raj, learned counsel for the petitioner and Sri D. Madhusudhan Vijay Kumar, learned counsel for the respondent.

7. Learned counsel for the petitioner would submit that the petitioner is neither aware of the ex parte decree in the suit nor the ex parte order in the execution petition. About ten days prior to filing of the petition, the petitioner came to know through his friend about the pendency of the case and immediately filed the application. The petitioner explained proper reasons. However, the Executing Court failed to consider the same.

8. On the other hand, learned counsel for the respondent/decree holder would submit that the petitioner came to the Court with unclean hands. Vakalat was filed on behalf of the petitioner in the suit, and thereafter, there was no contest on behalf of the petitioner. The trial Court decreed the suit on

22.06.2015. Even in the execution petition, the petitioner was set ex parte on 20.03.2018. No reasons were assigned to condone the delay of 2738 days in filing a petition to set aside the ex parte order.

9. The point for consideration is whether the order, dated 23.01.2026, in E.A.No.49 of 2025 in E.P.No.160 of 2017 in O.S.No.92 of 2014, suffers from any illegality or irregularity, warranting interference of this Court?

10. The facts referred to supra do not require any reiteration.

11. The suit was decreed ex parte on 22.06.2015. The Executing Court recorded a finding that in the suit, vakalat was filed on behalf of the petitioner. In fact, a certified copy of the vakalat is filed along with the counter.

12. It is a settled principle of law that substantial justice must not prejudice the opposing party and sufficient cause must be genuine.

13. The Hon'ble Apex Court in **Basawaraj v. Land Acquisition Officer**[1]**,** while dealing with the basis and object of the law of limitation, held as under:

> 12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has

[1] (2013) 14 SCC 81

> consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.
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> 15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.

14. The observations supra manifest that the delay should not be condoned merely as an act of generosity and substantial justice must not prejudice the opposing party and sufficient cause must be a genuine and bona fide, was reaffirmed by the Hon’ble Apex Court in **Pathapati Subba Reddy (died) by LRs.Vs. Special Deputy Collector (LA)**[2].

[2] 2024 SCC Online SC 513

15. The Hon'ble Apex Court in **Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy**[3], considered several old precedents on this aspect and summed up the following guidelines regarding condonation of delay:

> i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.
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> ii) The terms sufficient cause should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact- situation.
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> iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.
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> iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.
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> v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.
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> vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

[3] (2013) 12 SCC 649

vii) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.

viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

xii) The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.

16. To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are:

a) An application for condonation of delay should be drafted with careful concern and not in a half hazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.

b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.

c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.

d) The increasing tendency to perceive delay as a non- serious matter and, hence, lackadaisical propensity can be exhibited in a non-challan manner requires to be curbed, of course, within legal parameters.

16. In **Balwant Singh v. Jagdish Singh**[4], the Hon'ble Apex Court held as under at paras 25 and 26:

25. We may state that even if the term "sufficient cause" has to receive liberal construction, it must squarely fall within the concept of reasonable time and proper conduct of the party concerned. The purpose of introducing liberal construction normally is to introduce the concept of "reasonableness" as it is understood in its general connotation.

[4] **(2010) 8 SCC 685**

> 26. The law of limitation is a substantive law and has definite consequences on the right and obligation of a party to arise. These principles should be adhered to and applied appropriately depending on the facts and circumstances of a given case. Once a valuable right has accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of his acting vigilantly."

17. In the case at hand, the petitioner is seeking condonation of an inordinate delay of 2738 days in filing the petition to set aside the ex parte order dated 20.03.2018 passed in the execution proceedings. The only reason stated by the petitioner is that he came to know about the pendency of the cases through his friends ten days prior to filing the application and, thereafter, verified the details on the e-Courts website. However, a perusal of the record reveals that the petitioner filed vakalat in the suit, but did not choose to file a written statement. A certified copy of the vakalat filed on behalf of the petitioner in the suit was produced before the Executing Court. Therefore, the plea taken by the petitioner that he came to know about the case recently cannot be accepted. The petitioner failed to give satisfactory reasons for the inordinate delay.

18. The Executing Court considered all these facts and dismissed the application filed by the petitioner. The order under revision does not suffer from any illegality or irregularity.

19. Given the above discussion, this Civil Revision Petition is dismissed, confirming the order dated 23.01.2026 in E.A.No.49 of 2025 in E.P.No.160 of 2017 in O.S.No.92 of 2014 on the file of the learned I Additional District Judge, Nellore. There shall be no order as to costs.

As a sequel, all the pending miscellaneous applications shall stand closed.

JUSTICE SUBBA REDDY SATTI

Date : 16.10.2026

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