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Whether only operative part of the judgment is pronounced or whether full judgment is pronounced : FULL

APHC010331832021

[3584]

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

I.A. No.1 of 2021
IN/AND
WRIT APPEAL NO: 583 of 2021

Abburi Ramakrishna, and Others ...Appellant(s)

Vs.

The State Of Andhra Pradesh and Others ...Respondent(s)

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CORAM : THE CHIEF JUSTICE LISA GILL
SRI JUSTICE CHALLA GUNARANJAN

DATE : 13th October 2026

Present:

Advocate for Appellant: N ASHWANI KUMAR

Advocate(s) for Respondent(s): N GURU GOPAL, GP FOR ENDOWMENTS

COMMON JUDGMENT: (per Hon'ble Sri Justice Challa Gunaranjan)

Present Intra-Court Appeal preferred under Clause 15 of Letters Patent is directed against order dated 24.02.2016 in W.P. No.27378 of 2006, whereby learned Single Judge dismissed the writ petition. The appeal has been filed along with I.A. No.1 of 2021

under Section 5 of Limitation Act with a prayer to condone delay of 1470 days in filing present writ appeal.

2. Appellants/writ petitioners filed writ petition assailing G.O.Ms.No.1875, Revenue (Endowments-IV) Department, dated 14.12.2006, issued by 1st respondent, proposing to cancel the permission of alienation granted vide G.O.Ms.No.576, Revenue (Endowments-IV) Department, dated 10.08.2004 and consequential sale deed dated 24.11.2004 registered in favour of vendors of writ appellants in respect of land covered in Survey No.31/4 of Patamata Lanka, Vijayawada, to be illegal, arbitrary, and in violation of principles of natural justice.

3. (a) Appellants purchased subject property from Mrs.Abburi Ramadevi and Mr.K.Venkata Rama Rao through registered sale deeds vide document Nos.223/2006 and 752/2006 respectively. Vendors of appellants, in turn, purchased the property from Mrs.Rangamma through agreements of sale-cum-general power of attorney. The said Rangamma was cultivating tenant over an extent of Acres 0.35 cents, which was leased out by 3rd respondent Trust. She was declared as landless poor, and thereafter, by virtue of G.O.Ms.No.576, dated 10.08.2004, 1st respondent accorded permission to Commissioner,

Endowments, for alienation of above extent of land for a consideration of Rs.42,94,290/-. Sale deed dated 24.11.2004 was executed in her favour.

(b) Later, since it was found that said Rangamma along with three other persons, in whose favour agreements of sale-cum-general power of attorney were executed, by design plotted to appropriate subject property, 1st respondent, vide impugned G.O.Ms.No.1875, dated 14.12.2006, cancelled the earlier permissions as well as it was directed to take necessary steps for cancellation of sale deed. Learned Single Judge dismissed the writ petition by holding that the transaction itself was void *ab initio* because Rangamma who claimed to be landless poor even before sale deed was executed in her favour entered into agreements of sale – cum – General power of Attorney from third parties and received advance moneys for purchase of land, despite there being prohibition of sale within five years as per applicable Rules, rendering modes of transaction defeating avowed object and underlying policy envisaged under Section 82 of Endowments Act r/w relevant Rules. Thus, aggrieved by the same, present appeal is preferred.

4. (a) Since there is inordinate delay of 1470 days in preferring the appeal, learned counsel for appellant sought to address the Court on the aspect of limitation.

(b) Sri K.Trinadh, learned counsel, representing Sri N.Ashwani Kumar, submits that though the writ petition was dismissed vide order dated 24.02.2016, the same was not communicated to appellants immediately, and thereafter, due to bifurcation of High Court, the case bundle was misplaced.

(c) Further, it is stated that both learned Senior Counsel as well as Counsel-on-Record representing appellants got elevated as Judges of this Court and High Court of Telangana, therefore, it took considerable time for securing no-objection to proceed with filing of appeal. That apart, original files could not be traced at High Court of Telangana as well as files could not be retrieved from offices of both Senior Counsel and Counsel-on-Record, thus, appellants had to reconstruct the entire files in order to prepare for filing appeal. Thus, in the process, delay occurred, which is stated to be neither willful nor wanton. Accordingly, prayed for condonation of delay. Learned counsel for appellants also tried to canvas the merits of the matter.

(d) In support of aforesaid submissions, reliance has been placed on judgment of Hon'ble Apex Court in **Inder Singh v. The State of Madhya Pradesh**[1] and **State of Uttar Pradesh and others v. Satish Chand Shivhare and Brothers**[2].

5. Conversely, learned counsel appearing for respondent-State as well as Trust vehemently opposed the application for condoning the delay. It is submitted that the application absolutely lacks explanation of whatsoever, except making vague excuses which are not *bona fide* nor constitute sufficient cause for condoning inordinate delay. Thus, urged for dismissal of the application.

6. We have given our anxious consideration to arguments of both *advocati* and perused the *acta.*

7. In order to appreciate the submissions of learned counsel for appellants, the reasons and explanation offered for condoning delay needs to be examined. Though the affidavit filed in support of I.A. runs into several pages, the relevant paragraph setting out reasons read as under:

> "12. I submit that pursuant to passing of the impugned order under appeal, the same was not communicated to the

[1] 2025 LiveLaw (SC) 339
[2] 2022 SCC OnLine SC 2151

Petitioners/Appellants immediately and later on this Hon'ble Court came to be bifurcated, where the bundle was misplaced. I submit that later on, both the Lr.Senior Counsel and Lr.Counsel on record, were elevated as judges of this Hon'ble High Court and High Court at Hyderabad respectively, as such, the file and "No Objection" Vakalaths could not procured within the time frame, and therefore there occurred a delay of 1470 days in filing the above Writ Appeal, which neither wilful nor wanton, except for the circumstances beyond the control of the Appellants. The original files could not be traced at the High Court of Judicature at Hyderabad for the State of Telangana, and the files from the Office of Counsel on Record and the Senior Counsel, could not be traced. It took some time, for me, to re-create the file/bundle, and hence, delay of 1470 days came to be caused to file the above Writ Appeal, which is neither willful nor wanton, except for the circumstances beyond the control of the appellants."

8. Though learned counsel for appellants tried to impress upon us that merits of the matter warrant condoning the delay by adopting lenient view, we are unable to persuade ourselves of the said submission. It is well-settled law that while considering the plea for condonation of delay, the first and foremost duty of the Court is to first ascertain the *bona fides* of the explanation offered by the party seeking condonation, rather than starting with the

merits of the main matter. Only when sufficient cause or reasons given for the delay are satisfactory and balance the stands of both parties to the *lis*, the Court then may consider the merits of the matter for the purpose of condoning delay.

9. The appellants have pleaded that impugned order dated 24.02.2016 was not communicated to them and thereafter, the Court was bifurcated, in which process, case file was misplaced. The appellants are conspicuously silent of being aware of consideration and disposal of the writ petition. Appellants maintained absolute silence as to what happened from 24.02.2016 till bifurcation of Court i.e., 01.01.2019, there is absolutely no explanation forthcoming for nearly about two years ten months.

10. Further, it is pleaded that both counsels representing appellants were elevated as Judges of High Courts, which also was sometime in the year late 2019 and early 2020. Thereafter, appellants almost took more than one and half years to prefer writ appeal only on 01.09.2021. The reasons set out in Para 12 are neither convincing nor show sufficient cause.

11. We are of the view that appellants exhibited sheer negligence, and the reasons set out lack *bona fides*.

12. The law regarding condonation of delay is fairly well-settled. The Hon'ble Apex Court, while dealing with the aspect of limitation in **Pathapati Subba Reddy v. Special Deputy Collector (LA)**[3], held as under:

> "**28.** On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:
>
> **28.1.** Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;
>
> **28.2.** A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;
>
> **28.3.** The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;
>
> **28.4.** In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;
>
> **28.5.** Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may

[3] (2024) 12 SCC 336

not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

28.6. Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

28.7. Merits of the case are not required to be considered in condoning the delay; and

28.8. Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision."

13. In **State of Madhya Pradesh v. Ramkumar Choudhary[4],** the Hon'ble Apex Court at Paragraph Nos.6 and 7 held as under:

"**6.** At the same time, we cannot simply brush aside the delay occurred in preferring the second appeal, due to callous and lackadaisical attitude on the part of the officials functioning in the State machinery. Though the Government adopts systematic approach in handling the legal issues and preferring the petitions/applications/appeals well within the time, due to the fault on the part of the officials in merely communicating the information on time, huge revenue loss will be caused to the Government exchequer. The present

[4] 2024 SCC OnLine SC 3612

case is one such case, wherein, enormous delay of 1788 days occasioned in preferring the second appeal due to the lapses on the part of the officials functioning under the State, though valuable Government lands were involved. Therefore, we direct the State to streamline the machinery touching the legal issues, offering legal opinion, filing of cases before the Tribunal/Courts, etc., fix the responsibility on the officer(s) concerned, and penalize the officer(s), who is/are responsible for delay, deviation, lapses, etc., if any, to the value of the loss caused to the Government. Such direction will have to be followed by all the States scrupulously.

7. There is one another aspect of the matter which we must not ignore or overlook. Over a period of time, we have noticed that whenever there is a plea for condonation of delay be it at the instance of a private litigant or State the delay is sought to be explained right from the time, the limitation starts and if there is a delay of say 2 years or 3 years or 4 years till the end of the same. For example if the period of limitation is 90 days then the party seeking condonation has to explain why it was unable to institute the proceedings within that period of limitation. What events occurred after the 91st day till the last is of no consequence. The court is required to consider what came in the way of the party that it was unable to file it between the 1st day and the 90th day. It is true that a party is entitled to wait until the last day of limitation for filing an appeal. But when it allows the limitation to expire and pleads sufficient cause for not

filing the appeal earlier, the sufficient cause must establish that because of some event or circumstance arising before the limitation expired it was not possible to file the appeal within time. No event or circumstance arising after the expiry of limitation can constitute such sufficient cause. There may be events or circumstances subsequent to the expiry of limitation which may further delay the filing of the appeal. But that the limitation has been allowed to expire without the appeal being filed must be traced to a cause arising within the period of limitation. (See : *Ajit Singh Thakur Singh* v. *State of Gujarat*, (1981) 1 SCC 495 : AIR 1981 SC 733)."

14. In **Thirunagalingam v. Lingeswaran and another**[5], the Hon'ble Apex Court at paragraph Nos.31 and 32 held as under:

"**31.** It is a well-settled law that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the *bona fides* of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay.

32. Further, this Court has repeatedly emphasised in several cases that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not

[5] 2025 SCC OnLine SC 1093

come at the cost of causing prejudice to the opposing party. In the present case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet."

15. In the light of above legal principles, given the facts and circumstances, the explanation given by appellant in both applications is insufficient and do not meet the test of demonstrating sufficient cause to invoke this Court's discretionary jurisdiction in favour of condonation.

16. In the case of ***Inder Singh***[1], considering the facts and circumstances arising therein, the Hon'ble Apex Court, taking a lenient view, condoned the delay. However, in ***Satish Chand Shivhare***[2], though the Hon'ble Apex Court examined limitation as well as merits, ultimately declined to condone delay of 337 days in filing appeal, as it was found that appellants therein failed to show sufficient cause for condonation. There is no quarrel with the proposition of law enunciated in both these judgments. However, in the facts and circumstances, as we have observed, appellants failed to show sufficient cause to exercise discretionary powers to condone the inordinate delay of 1470 days.

17. Accordingly, I.A. No. 1 of 2021 is dismissed. Consequently, Writ Appeal stands dismissed. No costs.

As a sequel, miscellaneous petitions pending consideration, if any, in this case shall stand closed.

LISA GILL, CJ **CHALLA GUNARANJAN, J**

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