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APHC010714362022

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

MONDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION NO: 51/2023

Between:

1. PINJARI RATANA KHAJA BEE, ,W/O PINJARI RATANA MASTAN, PINJARI, AGED ABOUT 62 YEARS, CULTIVATOR, R/O CHINNA HULTHY VILLAGE, PATHIKONDA MANDAL.
2. PINJARI RATANA MASTAN,, S/O LATE PINJARI ALLI SAB, PINJARI, AGED ABOUT 67 YEARS, CULTIVATOR, R/O CHINNA HULTHY VILLAGE, PATHIKONDA MANDAL.

...PETITIONER(S)

AND

1. PINJARI MEHBOOB BEE, W/o Late Pinjari Ratana Nabi Rasool, Pinjari, aged about 38 years, Cultivator, R/o Chinna Hulthy Village, Pathikonda Mandal.

...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 i) allow the C.R.P., by setting aside the dt.16.09.2022 passed in I.A.No.371/2020 in O.S.No.69/2017 on the file of the Junior Civil Judge, Pattikonda ii) and to grant

IA NO: 1 OF 2023

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 including execution of the ex-parte decree passed in O.S.No.69/2017 on the file of the Junior Civil Judge, Pattikonda, dated 04.12.2017, pending disposal of the C.R.P before this Hon'ble Court, in the interest of justice and to pass

Counsel for the Petitioner(S):

1. J JANAKIRAMI REDDY

Counsel for the Respondent:

1. A CHANDRAIH NAIDU

The Court made the following Order:

Heard Ms. A. Keerthi, learned counsel representing Sri J. Janaki Rami Reddy, learned counsel for the petitioners and Sri P. Niranjan, learned counsel representing Sri A. Chandraiah Naidu, learned counsel for the respondent.

2. The defendants in the suit O.S.No.69 of 2017, filed the above revision petition assailing the order dated 16.09.2022 passed in I.A.No.371 of 2020 in O.S.No.69 of 2017 on the file of the learned Junior Civil Judge, Pattikonda.

3. The parties to this revision are referred to as per their array in the suit.

4. The facts in a nutshell are:

(a) The plaintiff filed the aforementioned suit against the defendants seeking a perpetual injunction in respect of two items of property. The plaintiff is the daughter-in-law of the defendants. In the plaint, it was pleaded about the partition deed dated 10.07.2012, whereby the plaintiff’s husband got the

property. It was further pleaded about the alleged interference by the defendants.

(b) After receiving the summons, according to the defendants, a panchayat was held before the elders. The elders advised the parties to attend the Court on the date of adjournment and request the Court to refer the matter to the Lok Adalat for compromise. Accordingly, the defendants attended the Court on 24.08.2017 and requested to refer the suit to the Lok Adalat. In the panchayat held after 24.08.2017, the elders advised the plaintiff not to claim the suit schedule properties and further advised her to withdraw the suit. The plaintiff agreed before the elders that she would not claim the property. Believing the words of the plaintiff, the defendants did not attend the Lok Adalat, and the defendants believed that the suit was closed. Thereafter, Item No.2 of the suit schedule property was gifted to their second son by name Sri P.Allisab, and he is in possession and enjoyment of Item No. 2. In respect of Item No.1, the defendants are in possession.

(c) Since the defendants failed to appear before the Court, the trial Court set them *ex-parte*. The plaintiff was examined as P.W.1, and Exhibits A1 to A2 were marked. The trial Court decreed the suit by judgment and decree dated 04.12.2017.

(d) During the third week of July, 2020, the plaintiff attempted to trespass into the property by showing a copy of the judgment. The defendants resisted the said attempt. Thereafter, the defendants approached the Advocate and filed I.A.No.371 of 2020. A counter was filed by the plaintiff and

opposed the said application. The trial Court dismissed I.A.No.371 of 2020, holding that the defendants/ revision petitioners failed to assign sufficient reasons to condone the delay of 957 days in filing a petition to set aside the *ex parte* decree dated 04.12.2017.

5. Ms. Keerthi, the learned counsel for the petitioners, contended that the petitioners are rustic villagers. The petitioners, having attended the Court and requested the Court to refer the matter to the Lok Adalat, did not attend the Lok Adalat since the issue was settled before the elders. The petitioners came to know about the *ex parte* decree in the third week of July 2020 and filed a petition immediately within 30 days.

6. Per contra, Sri P.Niranjan, learned counsel for the respondent, would submit that the petitioners failed to assign sufficient reasons to condone the delay of 957 days. The trial Court, after considering all the aspects, rightly dismissed the application.

7. The points for consideration are:

> "(i) Whether the petitioners have assigned proper and sufficient reasons to condone the delay of 957 days in filing a petition to set aside the *ex parte* decree dated 04.12.2017 passed in O.S.No.69 of 2017 on the file of the learned Junior Civil Judge, Pattikonda?
>
> (ii) Whether the order passed by the trial court suffers from any illegality warranting interference by this Court?"

8. The suit was filed by the plaintiff against the defendants seeking a perpetual injunction. Plaintiff is the daughter-in-law of the defendants. As seen

from the affidavit filed in support of the petition and the order in I.A.No.371 of 2020, as also other material on record, the revision petitioners/defendants attended the Court on 24.08.2017 and requested the Court to refer the matter to the Lok Adalat. The trial Court referred the matter to the Lok Adalat. However, neither the revision petitioners nor the respondent/plaintiff attended the Lok Adalat held on 09.09.2017. As seen from the daily status of the Lok Adalat, the following endorsement is made

> "Both parties are called absent. Matter not settled in National Lok Adalat. Matter is returned to regular Court. Call on 02.11.2017."

9. On 02.11.2017, the plaintiff called present. However, defendant Nos.1 & 2 were absent and had no representation. Hence, defendant nos.1 & 2 set *ex parte*. Thereafter, the plaintiff examined himself as P.W.1 and got marked Exhibits A1 and A2.

10. As stated *supra*, the plaintiff and defendants are closely related. The plaintiff is none other than the daughter-in-law of the defendants. The plaintiff did not deny the averment in the affidavit filed in support of the petition to condone the delay regarding the panchayat in the counter.

11. The length of the delay is of no consequence. The court must consider whether the party explained the delay by assigning sufficient grounds. In the absence of proper reasons, sometimes, a petition to condone the delay of a few days will be negatived.

12. The Hon'ble Apex Court in ***N. Balakrishnan v. M.Krishnamurthy***[1]**,** considered an identical issue and 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, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such a legal remedy for the redress of the legal injury so suffered. Time is precious, and wasted time can never be revisited. During the efflux of time, newer causes would sprout up, necessitating newer persons to seek legal remedy by approaching the Courts. So a lifespan must be fixed for each unending uncertainty and consequential anarchy.

13. The Apex Court went on further observing that in every case of delay, there can be some lapses on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or is not put forth as part of a dilatory strategy, the Court must show utmost consideration to the suitor. The length of delay does not matter, and the 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.

14. In the case at hand, as stated *supra*, the petitioners, in fact, attended the Court on 24.08.2017 and requested to refer the matter to the Lok Adalat.

[1] (1998) 7 SCC 123

Thereafter, the petitioners did not attend the Lok Adalat held on 09.09.2017, since the petitioners believed that the issue was compromised before the elders. The petitioners came to know about the *ex parte* decree in the third week of July, 2020 and immediately filed a petition to set aside the *ex parte* decree and also a petition to condone the delay of 965 days in filing the petition to set aside the *ex parte* decree. Of course, if the case of the revision petitioners is considered from the perspective of the date of knowledge, there is no delay in filing the application. However, since the revision petitioners received the summons and appeared before the Court and requested the suit to be referred to the lok Adalat, this court is not going into that aspect.

15. In fact, in paragraph No.8 of the order dated 16.09.2022, the only reason assigned by the trial Court is as follows:

> "…As per record, the petitioners approached this Court with this petition on 23.07.2020 i.e., after more than 2 ½ years. No prudent man will kept quite without verifying whether the case against him is disposed or not and therefore reasons stated by the petitioners for the delay caused in filing this petition cannot be believed…."

16. The trial Court failed to consider the relationship between the parties and the reasons assigned. Thus, the trial court failed to exercise its jurisdiction properly. The petitioners, in fact, assigned sufficient reasons to condone the delay. The sufficient reason assigned by the petitioners is the settlement said to have been arrived at before the elders. In fact, as noted *supra*, the petitioners had attended the Court on the first date of hearing i.e., on

24.08.2017 and requested the Court to refer the matter to the Lok Adalat, which shows the *bona fides* of the petitioners.

17. It is also undisputed fact that the respondent/plaintiff is the daughter-in-law of the petitioners. Though the suit was decreed in 2017, as seen from the material available on record, the plaintiff did not make use of the decree till the third week of July, 2020. In such circumstances, the order dated 16.09.2022 in I.A.No.371 of 2020 is liable to be set aside. Since the trial court failed to exercise the jurisdiction vested in it, this court, while exercising the jurisdiction under Article 227 of the Constitution of India, deems it appropriate to interfere with the said order.

18. Given the facts and circumstances and discussion supra, the Civil Revision Petition is allowed with the following directions:

(i) The order dated 16.09.2022 passed in I.A.No.371 of 2020 in O.S.No.69 of 2017 on the file of learned Junior Civil Judge, Pattikonda, is hereby set aside on condition that the petitioners shall pay Rs.7,000/- (Rupees Seven Thousand only) to the respondent, within four (04) weeks and file a receipt before the trial Court.

(ii) If the petitioners fail to pay the amount within the stipulated period, the order dated 16.09.2022 in I.A.No.371 of 2020 in O.S.No.69 of 2017 on the file of the learned Junior Civil Judge, Pattikonda, shall stand revived.

(iii) If the respondent/plaintiff declines to receive the amount, the petitioners shall deposit the amount before the Legal Services Authority, Pattikonda and file a memo before the trial Court.

(iv) The trial Court shall number the Interlocutory Application filed under Order IX Rule 13 of the Code of Civil Procedure, 1908 and pass appropriate orders as expeditiously as possible.

(v) Since the suit is of the year 2017, the trial Court shall expedite the trial, keeping in view the circular issued by the High Court vide R.O.C.No.560/OP/CELL/ 2022, dated 23.11.2022 and dispose of the same as expeditiously as possible, strictly in accordance with law.

(vi) Both parties shall cooperate during the trial.

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

JUSTICE SUBBA REDDY SATTI

Date: 22.06.2026

CM/PS/APS -KBN

Whether the order is:

Speaking		Reasoned	✓
Reportable		Non-reportable	✓

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THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION NO: 51/2023

Dated:22.06.2026
KBN