

**HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA**

CIVIL REVISION PETITION No.600 of 2015

—
ORDER : (per Hon'ble Sri Justice R.Subhash Reddy)

This Civil Revision Petition, under Section 115 of C.P.C., is filed by the petitioners aggrieved by the order dated 13.11.2014 in I.A.No.940 of 2014 in un-numbered Arb. O.P. C.F.R.No.3364 of 2014 passed by the Principal District Judge, Mahabubnagar District, dismissing the application filed by them under Section 5 of the Limitation Act, to condone the delay of 98 days in preferring the Arbitration O.P.

2. The lands of the petitioners covered by Sy.Nos.235/2, 71/2 and 237/2, situated at Balanagar Village and Mandal, Mahabubnagar District, were acquired by the Government under the provisions of the National High Ways Act, 1956 (for brevity "the Act") for the purpose of widening of the road and compensation was paid. On a protest petition filed by the petitioners seeking enhancement of compensation, the same was referred to the Arbitrator-cum-District Collector, Mahabubnagar District, under Section 3G (5) of the Act. On such petition, the Arbitrator-cum-District Collector, Mahabubnagar, has passed Award vide proceedings No.G3/1926/09, dated 26.12.2013, rejecting the claim of the petitioners for enhancement of compensation. Assailing the Award dated 26.12.2013, the petitioners have filed Arbitration O.P. under Section 34 of the Arbitration and Conciliation Act, 1996. As there was a delay of 98 days in preferring the O.P., they have filed an application being I.A.No.940 of 2014 under Section 5 of the Limitation Act, to condone the said delay. The

learned Principal District Judge, Mahabubnagar, following the judgment of the Apex Court in UNION OF INDIA v. POPULAR CONSTRUCTION COMPANY^[1], dismissed the said application as not maintainable, through the impugned order dated 13.11.2014. Hence, the present civil revision petition.

3. Learned counsel for the petitioners contends that though there are sufficient reasons to condone the delay, without considering the same, the Court below has dismissed the said application. Learned counsel would further contend that the 2nd petitioner died on 12.01.2014, who, during her life time, has bequeathed her property in favour of her son V. Rajender Reddy i.e., petitioner No.3 herein, who authorized petitioner No.1 through G.P.A. to file vakalat on his behalf, and after the death of petitioner No.2, petitioner No.1 left to U.S.A. and stayed with his son and, as such, the delay has occurred.

4. Heard learned counsel for the petitioners and perused the material on record, including the impugned order dated 13.11.2014.

5. In the aforesaid judgment, the Apex Court has clearly held that under the Scheme of Arbitration and Conciliation Act, 1996, there is no provision to condone the delay and, as such, no application can be entertained under Section 5 of the Limitation Act.

6. In view of the reasons assigned by the Court below, we do not find any merit in this civil revision petition, warranting interference by this Court.

7. Accordingly, this Civil Revision Petition is dismissed, at the admission stage. As a sequel, miscellaneous petitions pending, if any, in this revision shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

28.08.2015.

Msr

HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
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[\[1\]](#) (2001) 8 SCC 470