

**HON'BLE SRI JUSTICE S. RAVI KUMAR**

**CIVIL REVISION PETITION No.1593 of 2004**

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**ORDER:**

This revision is preferred against order dated 20.11.2003 in I. A. No.406 of 1995 in LRA SR No.979 of 1993.

2. Brief facts leading to this revision are as follows:

Revision petitioner herein filed petition under Section 5 of Limitation Act to condone delay of 50 days in preferring appeal against LCC.No.1782/RMM/75, 1192/RMM/75, dated 22.02.1993 and the appellate tribunal after considering the affidavit filed in support of petition and the counter filed on behalf of respondents, dismissed the application holding that there are no justifiable reasons to condone delay or to hold that revision petitioner was prevented by any sufficient cause.

3. Heard both sides.

4. Learned Government Pleader for Arbitration submitted that lower Court has not properly exercised its jurisdiction in considering the application filed under Section 5 of Limitation Act. He submitted that lower Court ought to have seen that substantial injustice was done to revision petitioner, and for that reason only, appeal was preferred with delay, and lower Court dismissed the application on technicalities, which cannot be accepted.

5. On the other hand learned counsel for respondents submitted that lower tribunal held that there is no surplus holding in its order dated 22.02.1993, and challenging that order Government preferred appeal, and the affidavit filed to condone delay was with all mistakes and no proper reason was explained for long delay of 50 days and the appellate tribunal rightly dismissed the application and that there are no grounds to interfere.

6. I have perused the material papers including impugned order dated

20.11.2003. As seen from the record, advocate's clerk of the Government pleader filed his affidavit to condone delay of 50 days on the ground that the record was mixed up with other records, but appellate tribunal observed that deponent was not a regular clerk in the office of the Government pleader and that he was set up for the purpose of giving evidence, and on that ground, his statement was not accepted. Appellate tribunal also found the delay actually comes to more than 77 days, but in the affidavit it is stated as only 50 days and the application was filed at a belated stage.

7. As seen from the order, appellate tribunal also noticed that this application was once returned by the office and in representing there was delay of 749 days and that was condoned, but as the affidavit of the pleader's clerk was vague and with all mistaken facts, appellate tribunal has not accepted. I do not find any wrong in appreciation of material by the appellate tribunal in considering the application filed under Section 5 of Limitation Act, on behalf of Additional Authorized Officer, Land Reforms, Kakindada. The appellate tribunal was right in not accepting the evidence of pleader's clerk, because it is for the office of the Additional Authorized Officer, Land Reforms, Kakinada to explain delay in preferring appeal, but not the pleader's clerk.

8. On a scrutiny of the material, I do not find any illegality or irregularity in the order of the lower appellate tribunal and further it is a matter of the year 1993.

9. For these reasons, I am of the view that this revision is devoid of merits and dismissed accordingly. No costs.

Miscellaneous Petitions, if any pending, in this petition, shall stand closed.

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**S. RAVI KUMAR, J**

Date: 22-04-2015.

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