THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.R.P.No.2026 of 2014

ORDER:

Respondents in L.G.O.P.No.19 of 2008 on the file of Court of Principal District Judge, Karimnagar are the petitioners in the present revision filed under Section 115 of CPC. The challenge in the present revision is to the order dated 28.4.2014 passed by the said Court in I.A.No.611 of 2013 in unregistered I.A.

2. Heard Sri K.Buchi Babu, learned counsel for the petitioners and Sri P.V.Narayana Rao, learned counsel for the respondents, apart from perusing the material available on record.

3. The respondents herein instituted L.G.O.P.No.19 of 2008 against the petitioners herein under Section 7A of A.P. Land Grabbing (Prohibition) Act. The learned District Judge, by way of an order dated 30.9.2009 allowed the said LGOP No.19 of 2008, ordering recovery of possession of Ac.1.00 guntas of land in Sy.No.1207 of Karimnagar town. In the said LGOP 19 of 2008, the respondents/petitioners herein were set exparte. Seeking to set aside the said ex parte order dated 30.9.2009, the petitioners herein filed an application and along with the said application, the petitioners also filed the present I.A.No.611 of 2013, seeking to condone the delay of 1229 days in filing the said application. The said I.A. was contested by the respondents by way of filing counter. The learned District Judge, by way of order dated 28.4.2014, dismissed the said application filed by the petitioners herein. Calling in question, the legal sustainability of the said order, the present revision has been filed under Section 115 of CPC.

4. It is contended by the learned counsel for the petitioners herein that the order passed by the learned District Judge is erroneous, contrary to law and is opposed to the provisions of Section 5 of Limitation Act. It is further contended by the learned counsel for the petitioners that the

learned District Judge failed to consider the material available on record in proper perspective. It is nextly contended by the learned counsel that the Court below should have given opportunity to the petitioners herein to prosecute the case on merits. It is also contended by the learned counsel that in view of the reasons assigned in the affidavit filed in support of the application, the petitioners herein are entitled to prosecute the case on merits and the learned District Judge grossly erred in refusing to consider the said request. In support of his submissions and contentions, the learned counsel for the petitioners takes the support of the judgments in **Pesara Pushpamala Reddy v. G.Veera Swamy and others**[1] and **N.Balakrishnan v. M.Krishnamurthy**[2]**.**

5. On the contrary, it is argued by the learned counsel for the respondents that the order passed by the learned District Judge is in accordance with the law and there is no illegality nor there is any material infirmity in the order passed by the Court below, which warrants interference of this Court under Section 115 of CPC. It is further contended by the learned counsel that there are absolutely no bonafides on the part of the petitioners herein in filing the present application. It is further contended by the learned counsel that since the petitioners herein made incorrect and false statements in the affidavit, they are not entitled for any indulgence of this Court under Section 115 of CPC. It is also submitted by the learned counsel that there are no sufficient reasons assigned by the petitioners in the affidavit filed in support of the application and the delay in the instant case is abnormal. To bolster his submissions/contentions, the learned counsel for the respondents places reliance on the following judgments:

(1) **Mohd. Shakeel Ahmed and another v. Poiner Overseas Corporation of India, Hyderabad**[3]

(2) **B.Madhuri Goud v. B.Damodar Reddy**[4]

(3) **John Peter v. Gangisetty Madduleti**[5]

(4) **P.K.Ramachandran v. State of Kerala and another**[6]

(5) **State of U.P. through Executive Engineer and another v.**

Amarnath Yadav[7]

6. In the above background, now the issues which this Court is called upon to answer in the present revision are;

(1) Whether the order passed by the learned Principal District Judge is in accordance with law;

(2) Whether the order under revision requires any correction by this Court under Section 115 of CPC.

7. A perusal of the information available before this Court manifestly discloses that the learned District Judge decreed LGOP No.19 of 2008 on 30.9.2009 and the petitioners herein remained ex parte. In the affidavit filed in support of the application under Section 5 of Limitation Act, it is the case of the petitioners that the petitioners 1, 3 to 6 did not receive any notices nor refused to take any notice and 2nd petitioner received notice, but did not appear before the Court below as he is an illiterate and has no knowledge of the consequences of the proceedings.

8. On the other hand, it is the specific case of the respondents herein in their counter that the petitioners 1, 3 to 6 refused to receive notices, as such the Court below set them ex parte and subsequently passed the exparte orders on 30.9.2009. It is the further case of the respondents herein that as per the orders made in I.A.No.534 of 2010 in O.P.No.19 of 2008, the Revenue Divisional Officer, Karimnagar took possession of the schedule land and directed the Tahsildar, Karimnagar to deliver possession of the land to the respondents and accordingly possession was delivered to the respondents by the Tahsildar, Karimnagar. It is also the case of the respondents herein that earlier petitioners 4 and 5 already filed a petition seeking to set aside the exparte order with a delay of 306 days and the same was returned by the Court below, but they failed to resubmit the same. While contending so, it is the case of the respondents herein that absolutely there are no bonafides in the present

application filed by the petitioners herein. The learned District Judge, by way of order under challenge, while recording a categorical finding that 2nd petitioner received notice, but did not appear and petitioners 1, 3 to 6 refused to receive notices, refused the relief in favour of the petitioners herein. A perusal of the order passed by the learned District Judge vividly discloses that the learned District Judge meticulously and thoroughly considered each and every aspect and ultimately held that the petitioners herein are not entitled for any relief under Section 5 of Limitation Act. The material available before this Court clearly and categorically discloses that no sufficient reasons were assigned by the petitioners herein in the affidavit filed in support of the application filed under Section 5 of Limitation Act. It is also pertinent to note at this juncture that as per the report of the Process Server dated 10.3.2008, which is made available by the learned counsel for the respondents, it is quite limpid that the petitioners 1, 3 to 6 herein refused to receive notices also. Another aspect which needs mention at this juncture is that earlier the petitioners herein filed W.P.No.21723 of 2013 before this Court. In the said writ petition, the petitioners herein filed rejoinder and at para 4 of the said counter, it is stated that the 2nd petitioner received notice in O.P.No.19 of 2008 and petitioners 3 to 6 refused to receive notices. Peculiarly in the present I.A.No.611 of 2013, it is stated that the petitioners 1, 3 to 6 did not receive any notice at all nor they refused to receive the notices. This conduct on the part of the petitioners herein can neither be approved nor can be countenanced.

9. In this context, it may be appropriate to refer to the judgments cited by the learned counsel for the petitioners.

(1) In *Pesara Pushpamala Reddy v. G.Veera Swamy* (1 supra), the Hon'ble Supreme Court at paragraphs 31 and 32 held as under:

> "**31.** In *State Bank of Patiala* v. *S.K. Sharma* this Court relying on *Dhirendra Nath Gorai* v. *Sudhir Chandra Ghosh* has held: (*S.K. Sharma case*, SCC p. 387, para 29)
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> "*29*. … But then even a mandatory requirement can be waived

by the person concerned if such mandatory provision is conceived in his interest and not in public interest…."

In the aforesaid case, this Court has further held: (*S.K. Sharma case*, SCC p. 389, para 33)

"*33.* (3) In the case of violation of a procedural provision, the position is this: procedural provisions are generally meant for affording a reasonable and adequate opportunity to the delinquent officer/employee. They are, generally speaking, conceived in his interest. Violation of any and every procedural provision cannot be said to automatically vitiate the enquiry held or order passed. Except cases falling under—'no notice', 'no opportunity' and 'no hearing' categories, the complaint of violation of procedural provision should be examined from the point of view of prejudice…."

32. The provisions of the Act and the Rules mandatorily requiring notification or publication of the notice of the case after the Special Tribunal or the Special Court takes cognizance are procedural provisions and the law laid down by this Court in *State Bank of Patiala* v. *S.K. Sharma*[11] is that violation of such procedural provisions will not vitiate the proceedings unless prejudice is caused to the party complaining of the violation. The respondents in the two cases before us not only had notice of the application under Section 7-A of the Act before the Special Tribunal but also filed their replies to the application and got the opportunity to adduce evidence in support of their case and had not suffered any prejudice for non-compliance with the provisions of the proviso to sub-section (4) of Section 7-A of the Act or Rule 7 of the Rules. The High Court was, therefore, not right in quashing the proceedings before the Special Tribunal in the present case on the ground that a notification or notice in terms of Rule 7(2) of the Rules had not been issued after the case was taken cognizance of by the Special Tribunal."

(2) In *N.Balakrishnan v. M.Krishnamurthy* (2 supra), the Hon'ble Supreme Court at paragraphs 9 to 13 held as under:

"**9.** It is axiomatic that condonation of delay is a matter of discretion of the court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower court.

10. The reason for such a different stance is thus:

The primary function of a court is to adjudicate the dispute between the parties and to advance substantial justice. The time-limit fixed for approaching the court in different situations is not because on the expiry of such time a bad cause would transform into a good cause.

11. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that 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 legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. 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 remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim *interest reipublicae up sit finis litium* (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

12. A court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide *Shakuntala Devi Jain* v. *Kuntal Kumari* and *State of W.B.* v. *Administrator, Howrah Municipality*.

13. It must be remembered that in every case of delay, there can be some lapse 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 it is not put forth as part of a dilatory strategy, the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time, then the court should lean against acceptance of the explanation. While condoning the delay, the court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant, the court shall compensate the opposite party for his loss."

10. The judgments relied on by the learned counsel for the respondents.

(1) I n *Mohd. Shakeel Ahmed and another v. Poiner Overseas Corporation of India, Hyderabad* (3 supra), this Court at paragraph 7 held as under:

"7. POINT:

7.(a) The facts necessary and the pleadings of the parties are stated supra. The learned counsel for the revision petitioners/plaintiffs had reiterated the averments in the affidavit filed in support of the petition and had further contended as follows: The former counsel of the plaintiffs had not informed about the stage of the proceedings of the suit. Due to non intimation by the counsel on record, the plaintiffs could not either know about the conditional orders of the Court below or attend before the Court on 03.07.2012. The trial Court had failed to take note of the said fact and also the fact that the 1st plaintiff was inflicted with jaundice, chicken guinea with viral etcetera with effect from 15.06.2012 and that he was under treatment. The trial Court had erred in not considering the medical certificates filed by the plaintiffs and also the death certificate relating to the death of the father of the plaintiffs. The trial Court had not considered in the right perspective not only the facts but also the ratios in the decisions relied upon in support of the request for condonation of delay. The trial Court had unnecessarily taken into consideration the aspects of non appearance of the plaintiffs on previous dates of adjournments and had stretched the matter to cover circumstances which had occurred prior to the date of dismissal of the suit on 03.07.2012 and had penalised the plaintiffs for previous negligence also which had already been over looked and condoned earlier. The trial Court had not appreciated the sufficient cause that was shown by the 1st plaintiff for his absence on 03.07.2012 on which date the suit was dismissed for default. The trial court had also not considered that the refusal to condone the delay and the consequential rejection of the petition for restoration of the suit would result in foreclosing a suit and, therefore the order impugned is unsustainable both under facts and in law.

7.(b) On the other hand, the learned counsel for the defendant had contended that the delay is a long delay of more than an year and that no explanation much less truthful and valid explanation was offered for the condonation of such a long delay and that the delay is directly a result of negligence and deliberate inaction and that the plaintiffs are negligent and that, therefore, it is unfair to deprive the defendant of a valuable right that had accrued to him in law and that there is material on record to show that the 1st plaintiff was hale and healthy and is moving about and is attending to his other works while deliberately neglecting to attend to the suit proceedings and that the 1st plaintiff has resorted to false pleas that he was unwell and had filed into court concocted medical certificates and that in any view of the matter, even if the alleged contention that the 1st plaintiff is unwell is true, the entire delay that had occasioned is not explained and no explanation is forthcoming for the 2nd plaintiff not attending before the Court and not prosecuting the matter and not taking steps in time for seeking restoration of the suit which was dismissed for default.

7.(c) A plain reading of the provision of law would show that the plaintiffs who are seeking condonation of a long delay of 384 days are obliged under law to show sufficient cause which implies satisfactory or reasonable explanation which is legal and adequate to answer the purpose intended. On a careful consideration of the case pleaded by the plaintiffs, it is manifest that the plaintiffs, to explain the long delay, rely upon the following causes namely (1) the former counsel in the trial court not informing the 1st plaintiff about the conditional order passed by the Court below despite the said counsel having 1st plaintiffs phone number and address with him and the non attendance of the 1st plaintiff before the Court on 03.07.2012 for the above reason; (2) the 1st plaintiffs illness from 15.06.2012 to 30.04.2013 on account of jaundice, chicken guinea with viral and his inability to contact the counsel and to move out of the house till the month of May 2013 due to the said illness; and (3) the then counsels reluctance to give no objection vakalat and also failure to return the entire bundle, which necessitated the plaintiffs to obtain certified copies of the record before seeking restoration and the time consumed till the obtaining of the certified copies on 14.06.2013.

7.(d) At the out set, it is to be noted that the learned counsel would first contend that the trial Court had unnecessarily taken into consideration the aspects of non appearance of the plaintiffs on the previous dates of adjournments and had stretched the matter to cover circumstances which had occurred prior to the date of dismissal of the suit on 03.07.2012 and that the Court below had penalised the plaintiffs for previous negligence also which had already been over looked and condoned earlier. No doubt while considering the merits of the application filed for the restoration of the suit that was dismissed for default the Court has to only consider the valid reason, if any, for non appearance of the plaintiffs on the day the suit was dismissed for default, but the Court cannot take into consideration the aspects of non appearance of the plaintiffs on previous dates of adjournments and cannot stretch the matter to cover circumstances which had occurred prior to the date of dismissal of the suit on 03.07.2012 as the said conduct prior to the said date stands over looked and condoned. But this argument deserves consideration if only the application for condonation of delay stands allowed and the application filed for restoration of the suit comes up for hearing and disposal on merits. But the said contention cannot be countenanced at this stage when this Court is considering the merits of the application filed for the condonation of the delay that had occasioned in seeking restoration of the suit that was dismissed for default.

Therefore, the first contention raised is not germane for consideration at this stage of the matter.

7.(e) Before proceeding further in the matter it is necessary to refer to the precedents relied upon by the learned counsel for both the sides.

Learned counsel for the petitioners had relied on the following decisions.

1. Movva Anjamma v. Abhineni Anasuya and another

2. N. Balakrishnan v. M. Krishnamurthy

3. Hiren Singha Roy v. Howrah Improvement Trust

4. G.P. Srivastava v. R.K. Raizada

Learned counsel for the respondent had relied on the following decisions.

1. Balwant Singh v. Jagdish Singh

2. Lanka Venkateswarlu v. State of Andhra Pradesh

3. Pundlik Jalam Patil v. Exe. Eng. Jalgaon Medium Project

4. K. Madhavan v. K.N. Sekar

I have carefully gone through the ratios in the precedents. On an overall consideration of the legal position settled in the precedents, other principles apart, the following principles emerge.

The statutory provision mandates that while considering the applications for condonation of delay, the applicants are required to show sufficient cause for condonation of such delay. Sufficient cause implies satisfactory or reasonable explanation, which is legal and adequate to answer the purpose intended. Condonation of delay is a matter of discretion of the Court. The words sufficient cause under Section 5 of the Limitation Act should receive liberal construction so as to achieve substantial justice. However while condoning the delay; the Court should not forget the opposite party altogether. A liberal approach is to be adopted in considering the application for condonation of delay on the ground of sufficient cause under Section 5 of the limitation Act. The concept of such a liberal approach cannot be equated with doing injustice to the other party. The court cannot condone the delay in a case where the Court concludes that there is no justification for the delay. The discretion has to be exercised within the reasonable bounds known to the law. Whims or fancies, prejudice or predilections could not form the basis for exercising the discretionary power. When the delay is directly a result of negligence, default or inaction of a party, such delay cannot be condoned on mere asking of that party. When an applicant makes an incorrect statement in an application seeking condonation of delay, the Court ought to refuse to condone such delay or inordinate delay. When the explanation offered is found to be a sufficient cause for condonation of the delay, but the delay that deserves to be condoned is a long delay, such delay is generally condoned by imposition of adequate terms/costs to compensate the loss and hardship that may be caused to the opposite party on account of the consequential delay in hearing and disposal of the case. Length of delay is no matter and the acceptability of the explanation is the only criterion. If there is no acceptable explanation, sometimes a delay of shorter length may also be uncondonable whereas in certain other times, the delay of a very long range can be condoned provided sufficient cause is shown.

7.(f) Therefore, as rightly and fairly conceded by the learned counsel for both the sides, whether the explanation offered and the cause shown for condonation of the delay is sufficient and whether the delay deserves to be condoned in a case depends upon the facts and the circumstances of that case. Reverting back to the facts of the case, now the plaintiffs inter alia would submit that the counsel did not inform them about the conditional order made in the suit on 21.06.2012 by the Court below directing them to appear before the Court on 03.07.2012 and that due to non intimation by the counsel they could not attend before the Court. Nevertheless, the following facts as borne out by the record are evident from the order of the Court below: That on 21.06.2012, one Sri V. Raghavulu, a Junior counsel in the office of the then counsel for the plaintiffs had appeared before the trial court and had reported to the Court that his senior counsel is going to report no instructions on the next date of hearing and that on that day the counsel for the respondent/defendant was also present before the trial court and had reported ready to proceed with the matter and that on that the trial Court had passed a conditional order directing the plaintiffs to appear on the next date of hearing and adjourned the matter to 03.07.2012. However as there was no representation for the plaintiffs on 03.07.2012 till 05:00 PM, despite the trial Court passing a conditional order, the trial court had dismissed the suit for default having no other option. In the normal course of events, no counsel would make a representation against the interests of his own clients before a Court. Coming next to the relevancy of exhibit P3, which is said to be the death certificate of the father of the plaintiffs, the same is not helpful to the plaintiffs to advance their case for condonation of delay for the reasons going to be assigned infra and also as the date of the death as mentioned in the said certificate is 28.11.2012 and where as the suit was dismissed for default on 03.07.2012 and the present application for condonation of delay was filed in August 2013. The next contention of the plaintiffs is that the 1st plaintiff was unwell from 15.06.2012 to 30.04.2013 and was confined to house due to his illness. However, as rightly contended by the defendant, no explanation was offered as to what prevented the 2nd plaintiff in pursuing the matter before the trial court. Coming to the cause viz., the 1st plaintiffs illness during the above said period and his inability to contact the counsel and move out of the house, it is the case of the plaintiffs that the 1st plaintiff was advised rest during the above said period and that he had recovered from the illness and had started moving out in the month of May 2013 and that after his recovery from illness he had come to know that the suit was dismissed for default on 03.07.2012. However, the affidavit is silent as to when and on what dates such enquiries were made and on which date the plaintiffs came to know about the dismissal of the suit for default on 03.07.2012. In support of the contention that the 1st plaintiff was unwell and was advised rest, two medical certificates were filed. Exhibit P1, the medical certificate dated 10.12.2012 issued by a registered medical practitioner, on a perusal would show that the 1st plaintiff received treatment for liver disease/jaundice from 15.06.2012 to 10.12.2012 and that he was advised rest during that period as it was necessary for restoration of his health. Exhibit P2, the medical certificate dated 30.04.2013 issued by the same Doctor, would show that the 1st plaintiff had suffered joint pains with chicken guinea from 19.12.2012 to 30.04.2013 and that he was incapacitated with joint pains and that rest was necessary during the period for restoration of his health. The defendant had filed exhibit R1, which is a certified copy of the registered sale deed bearing document no. 1587 of 2013 dated 30.04.2013, which was registered in the office of the Sub Registrar, Ramayampet. The said document was executed by the 1st plaintiff by attending the office of the Sub Registrar, Ramayampet on 30.04.2013 is undisputed. The said document, therefore, would show that the 1st plaintiff who is a resident of Humayun Nagar of Hyderabad had undertaken travel to a place, which is beyond 50 KMs from Hyderabad, to register a sale deed at the office of Sub Registrar, Ramayampet. If really the 1st plaintiff required bed rest till 30.04.2013 as certified in exhibit P2, one would not expect him to undertake travel on the very same day to register a document at a distant place. Therefore, it is clear that the contention that he was unwell and not moving out of the house is not correct. Thus there is material on record to show that the 1st plaintiff was moving out of house from 30.04.2013 onwards. The suit was admittedly dismissed for default on 03.07.2012. However, for seeking restoration of the suit, no steps were taken immediately i.e., from the reopening of the Courts on 3rd June, 2013 till August, 2013. No explanation is forthcoming for the delay till the date the application is filed in the month of August 2013 before the trial Court. Thus, there is no explanation much less valid explanation and no sufficient cause was shown for the long delay. Coming to the reason that the counsel did not return the entire record and that therefore, the certified copies of the record were obtained and the same were granted on 14.06.2013 and that in the process the delay had occasioned, what is to be noted is that the certified copies of the records allegedly obtained from the Court are not produced to show when the application for copies of the record was made and when the same were granted. Even going by this version, the copies of the record were received on 14.06.2013 according to the pleaded case of the plaintiffs and the matter was entrusted to the present counsel thereafter. The application was not filed even within a reasonable time from 14.06.2013. Thus, on a careful consideration of the facts, pleadings and the material on record it is clear that the delay is a direct result of the negligence and deliberate inaction on the part of the plaintiffs and that there is not only no valid explanation but the explanation sought to be offered is also not true. Further, on consideration of all the facts and the circumstances it is clear that there is no justification for the delay. Applying the settled legal principles to the facts of the case, particularly the principle that when a party makes a false statement before the Court while seeking condonation of delay, the delay shall not be condoned exercising discretion in his favour, this Court finds that sufficient cause was not shown for condonation of the long delay and that the plaintiffs are not entitled to the discretionary relief. Having given earnest consideration to the facts and circumstances of the case, this Court is of the well-considered view that the order of the court below brooks no interference. Viewed thus, this Court finds that there is no merit in the revision and the same is liable to be dismissed."

(2) In *B.Madhuri Goud v. B.Damodar Reddy* (4 supra), the Hon'ble Supreme Court at paragraphs 9 to 11 held as under:

"9. In P.K. Ramachandran v. State of Kerala (1997) 7 SCC 556 this Court reversed the order passed by the High Court for condonation of 565 days delay in filing of an appeal by the State against the decree passed by the Subordinate Court and observed:

Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the courts have no power to extend the period of limitation on equitable grounds.

10. In Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai: (2012) 5 SCC 157 this Court referred to some of the judicial precedents and observed:

What needs to be emphasised is that even though a liberal and justice-oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost.

What colour the expression "sufficient cause" would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay.

11. In the light of the propositions laid down in the aforementioned judgments we shall now examine whether the explanation given by the Respondent for 1236 days delay had any semblance of credibility and the learned Single Judge of the High Court rightly exercised the discretion vested in him under Section 5 of the Limitation Act."

(3) In *John Peter v. Gangisetty Madduleti* (5 supra), this Court refused to condone the inordinate delay of 1102 days in filing application under Order 9 Rule 13 of CPC especially in the absence of any sufficient cause being explained.

(4) In *P.K.Ramachandran v. State of Kerala* (6 supra), the Hon'ble Supreme Court at paragraphs 5 and 6 held as under:

"5. This can hardly be said to be a reasonable, satisfactory or even a proper explanation for seeking condonation of delay. In the reply filed to the application seeking condonation of delay by the appellant in the High Court, it is asserted that after the judgment and decree

> was pronounced by the learned Sub Judge, Kollam on 30.10.1993, the scope for filing of the appeal was examined by the District Government Pleader, Special Law Officer, Law Secretary and the Advocate General and in accordance with their opinion, it was decided that there was no scope for filing the appeal but later on, despite the opinion referred to above, the appeal was filed as late as on 18.1.1996 without disclosing why it was being filed. The High Court does not appear to have examined the reply filed by the appellant as reference to the same is conspicuous by its absence from the order. We are not satisfied that in the facts and circumstances of this case, any explanation, much less a reasonable or satisfactory one had been offered by the respondent State for condonation of the inordinate delay of 565 days.
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> 6. Law of limitation may harshly effect a particular party but it has to be applied with all its rigour when the statute so prescribes and the Courts have no power to extend the period of limitation on equitable grounds. The discretion exercised by the High Court was, thus, neither proper nor judicious. The order condoning the delay cannot be sustained. This appeal, therefore, succeeds and the impugned order is set aside. Consequently, the application for condonation of delay filed in the High Court would stand rejected and the Miscellaneous First Appeal shall stand dismissed as barred by time. No costs."

(5) In *State of U.P. through Executive Engineer and another v. Amarnath Yadav* (7 supra), the Hon'ble Supreme Court at paragraph 2 held as under:

> "………………………………………. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay."

11. In the facts and circumstances of the case, the judgments cited by the learned counsel for the petitioners would not render any assistance to the petitioners herein.

12. As rightly pointed out by the learned counsel for the respondents and in the definite opinion of this Court the application filed by the

petitioners herein is not a bonafide one and the explanatioin offered by the petitioners is not acceptable. It is the settled and well established principle of law that the individuals who approach the Courts by making false and incorrect statements are not entitled for any indulgence of the Courts. The totality of the circumstances drives this Court towards an irresistible conclusion that there are absolutely no merits in the case of the petitioners herein which warrants interference of this Court under Section 115 of CPC.

13. For the aforesaid reasons, the C.R.P. is dismissed. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 24.2.2015
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI

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C.R.P.No.2026 of 2014

24.2.2015

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THE HON’BLE SRI JUSTICE A.V.SESHA SAI

C.R.P.No.2026 of 2014

Date : 24.2.2015

Between:

Dayyala Balaiah and others.

… Petitioners

and

Syed Mohammed & others.

… Respondents

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[1] (2011) 4 SCC 306

[2] (1998) 7 SCC 123

[3] 2014(6) ALDD 595

[4] (2012) 12 SCC 693

[5] AIR 2011 (NOC) 34 (AP)

[6] AIR 1998 SC 2276

[7] (2014) SCCR 198