

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

I.A.No.1 of 2018 in WRT APPEAL No.1229 of 2018
AND
WRT APPEAL NO.1229 of 2018

COMMON ORDER: (per SK,J)

The appellant is the respondent in W.P.No.31612 of 2016. He is aggrieved by the dismissal of his vacate stay petition filed in the said writ petition. However, he chose to file this appeal with the delay of 300 days. I.A.No.1 of 2018 was filed by him seeking condonation of the said delay.

The explanation offered for this delay is set out in para 3 of the supporting affidavit, which reads as under:

'I am advised to submit the writ appeal he supposed to be preferred within (30) days from the date of receipt of impugned order. The impugned order was made on 06.09.2017, my counsel clerk has made copy application on 15.11.2017, order copy was made ready on 08.01.2018. I submit the file pertain to the above W.P.No.31612 of 2016 was misplaced in the office of my advocate and after making best efforts the file was traced only on 29.07.2018 as the said file was mixed with the disposal files. Therefore, there was a delay of (245) days in preferring the writ appeal, which is neither intentional nor wanton. Therefore, I pray this Hon'ble Court may be pleased to condone the delay as in preferring the writ appeal I have good grounds to succeed in the writ appeal.'

Sri V.Narasimha Goud, learned counsel for the appellant, fairly concedes that the affidavit does not spell out as to when the case file was misplaced in his office.

It is however apparent that the order under appeal was passed on 06.09.2017 and a copy application was made in relation thereto more than two months later on 15.11.2017. This delay is not explained at all. Presumably, the file would have been available at the time such a copy application was made as there is no reason as to why such an application

would have been made more than two months after the passing of the order unless the file was available at that time. Therefore, the delay of more than two months is left unexplained.

The practice of filing condonation of delay petitions lackadaisically on the strength of casually drafted affidavits which do not even purport to put forth the semblance of an excuse for seeking condonation of such delay needs to be condemned in no uncertain terms. A party approaching the Court with delay is duty bound to explain the reasons for such delay. Unfortunately, it has become the habit of litigants to assume that the delay would be condoned as a matter of course and need not be justified by offering valid reasons. The aforestated paragraph 3 in the supporting affidavit clearly demonstrates that this is a case of that nature. We therefore find no grounds to condone the delay.

IA.No.1 of 2018 in W.A.No.1229 of 2018 is accordingly dismissed. In consequence, W.A.No.1229 of 2018 is also dismissed.

Other pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR,J

M.GANGA RAO,J

Date:18.09.2018

GJ