

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

I.A.No.1 of 2018
In/and
S.A. No.1750 of 2018.

COMMON ORDER:

I.A.No.1 of 2018 is filed seeking condonation of delay of 603 days in filing the appeal challenging the judgment and decree dt.23-11-2013 in A.S.No.17 of 2015 of the III Additional District Judge at Asifabad.

2. In para-8 of the affidavit filed in support of I.A.No.1 of 2018 it is stated the reason for the delay as under:

“8. It is further submitted that appellants have to file an appeal on or before 02-02-2017 as the learned appellate Court delivered the judgment on 23-01-2016 and the copy of the same furnished on 02-01-2017. The appellants herein approach the Learned Standing Counsel at Hyderabad to seek an opinion whether to file further appeal or not. Since there was a change in the standing counsel and pursuing for filing present appeal with the higher officials the delay of ____ days occurred, the delay neither willful nor wanton but purely due to the reasons stated herein above. If the delay is not condoned pending appeal the appellants herein will suffer irreparable loss and injury and monetary loss to the appellants”.

3. A reading of the above paragraph indicates that change of Standing Counsel of the appellant is quoted as reason for the delay of 603 days in filing the appeal. The appellants are corporate bodies and have law Officers and a Standing Counsel and mere change in Standing Counsel at Hyderabad cannot be said to be sufficient cause for condoning the inordinately long period of delay of 603 days in filing the Second Appeal.

4. **In Post Master General and others Vs. Living Media India Limited and others**¹, the Supreme Court has held that long administrative delay cannot be condoned particularly when it is unexplained. It further held:

“26. In spite of affording another opportunity to file better affidavit by placing adequate material, neither the Department nor the person-in-charge has filed any explanation for not applying the certified copy within the prescribed period. The other dates mentioned in the affidavit which we have already extracted, clearly show that there was delay at every stage and except mentioning the dates of receipt of the file and the decision taken, there is no explanation as to why such delay had occasioned. Though it was stated by the Department that the delay was due to unavoidable circumstances and genuine difficulties, the fact remains that from day one the Department or the person/persons concerned have not evinced diligence in prosecuting the matter to this Court by taking appropriate steps.

27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being

¹ (2012) 3 SCC 563

used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

30. 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.”

5. In view of the settled legal position, I am of the view that no case is made out for condoning the inordinately long delay of 603 days in filing the Second Appeal.

6. Therefore, I.A.No.1 of 2018 is dismissed. Consequently, S.A.No.1750 of 2018 is rejected. No costs.

7. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 19-03-2019

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