

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

MONDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE P.SREE SUDHA

I.A.No. 1 OF 2024
IN/AND
APPEAL SUIT No: 408 OF 2024

Appeal filed under Section 96 of C.P.C., against the Judgment and Decree dated 01/08/2019 passed in OS No.1559/2017 on the file of the Court of the XVI Additional District and Sessions Judge -Cum- XVI Additional Metropolitan Sessions Judge, Rangareddy District at Malkajgiri.

Between:

N. Narendra Nath, S/o. Late. N. Ramakrishna Rao, Aged about 51, Occ. Business, R/o. H.No. 6-6-455/1/1, Road No.9, Behind C.G.O. Towers, Gandhi Nagar, Secunderabad-500080

...Appellant

AND

1. K. Sarat Chandra Reddy, S/o. K.V. Ramana Reddy, Aged about 67 years, Occ. Retired Officer R/o. H. No.8-5-147/3, Road No.4, Mallikarjuna Colony, Old Bowenpally, Secunderabad-500011
2. K.V. Rajesh Chandra Reddy, S/o. K.V. Sarat Chandra Reddy Aged about 40 years, Occ. Pvt. Employee R/o. H. No.8-5-147/3, Road No.4, Mallikarjuna Colony, Old Bowenpally, Secunderabad-500011
3. K. Deepthi, W/o. P. Rakesh Aged about 37 years, Occ. Housewife R/o. H. No.8-5-147/3, Road No.4, Mallikarjuna Colony, Old Bowenpally, Secunderabad-500011
4. Smt. N. Suguna, W/o. Late N. Ramakrishna Rao, Aged about 70, Occ. Housewife, R/o. H.No. F-52, IICT Quarters, Habsiguda, Hyderabad (Respondent No.4 is not necessary party to this Appeal)

...Respondent

IA NO: 1 OF 2024

Petition under Section 5 of Limitation Act, praying that in the circumstances stated in the affidavit filed in support of the petition, the High

Court may be pleased to condone the delay (1700) days in preferring the above Appeal before this Honourable Court.

IA NO: 2 OF 2024

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the EP No.249/2022 pending on the file of the 1st Additional Chief Judge, CCC, Secunderabad filed in execution of the Judgment and Decree dated 01/08/2019 passed by the XVI Additional District and Sessions Judge — Cum-XVI Additional Metropolitan Sessions Judge, Rangareddy District at Malkajgiri in OS No.1559/2017 pending disposal of the above appeal.

Counsel for the Appellant : Sri M.V. Raj Kumar Gabriel

Counsel for Respondent Nos. 1 to 3 : Sri Modali Eswara Prasad

The Court made the following: COMMON ORDER

THE HONOURABLE SMT. JUSTICE P.SREE SUDHA

I.A.No.1 of 2024

In/And

A.S.No.408 of 2024

COMMON ORDER:

This application is filed to condone the delay of 1700 days in preferring the appeal.

2. Respondents No.1 to 3 herein have filed a suit *vide* O.S.No.1559 of 2017, for recovery of amount with costs and future interest, against the petitioner and respondent No.4 herein. The trial Court after considering the evidence on record and arguments of both sides, decreed the suit. Aggrieved by the said Order, petitioner preferred the present appeal with a delay of 1700 days i.e., more than 4 ½ years.

3. Learned Counsel for the petitioner contended that no summons was served upon the petitioner at any point of time to his present or permanent address. He came to know about the passing of *ex-parte* decree in O.S.No.1559 of 2017 only on communication of E.P.No.249 of 2022, on that he obtained certified copies of the *ex-parte* decree and filed an appeal with a delay of 1700 days.

4. In the counter filed by respondent No.1, he stated that petitioner instead of filing the application to set aside the *ex-parte* decree, he came up with the present appeal at a belated point of time. Legal notice sent to the petitioner and respondent No.4 was refused by them, as such he filed the suit for recovery of amount. Even after passing of the decree, he informed to the petitioner regarding the passing of *ex-parte* decree, but petitioner never bothered to comply the Order and now after filing the execution petition, he came up with this application with a delay of 1700 days and thus requested the Court to dismiss the same.

5. Petitioner and respondent No.4 herein were set *ex-parte* in the suit. Respondents No.1 to 3 stated that though they sent notice to the petitioner and respondent No.4, it was returned with an endorsement '*refused*', and thus it can be deemed to be proper service. Therefore, now petitioner cannot contend that he has no knowledge of the proceedings of the suit. The father of the petitioner died in August, 2016 and later respondents No.1 to 3 filed the suit for recovery of amount. Though the father of the petitioner assured to repay the sale consideration, he did not pay the same. Even after the death of his father, petitioner has not filed the application under Order 9 rule 13 to set aside

the *ex-parte* decree. Only after filing of the execution petition, he came up with the present application at a belated point of time. This Court finds that reasons stated by the petitioner for an abnormal delay of more than 4 ½ days in filing the appeal are neither convincing nor satisfactory to condone the delay.

6. Accordingly, I.A.No.1 of 2024 is dismissed. Consequently, the Appeal Suit is rejected.

Miscellaneous petitions pending, if any, shall stand closed.

//TRUE COPY//

Sd/- M. RAMANA KRISHNA
DEPUTY REGISTRAR

SECTION OFFICER

To,

1. The XVI Additional District and Sessions Judge -Cum- XVI Additional Metropolitan Sessions Judge, Rangareddy District at Malkajgiri.
2. One CC to Sri M.V. Raj Kumar Gabriel, Advocate [OPUC]
3. One CC to Sri Modali Eswara Prasad, Advocate [OPUC]
4. Two CD Copies

Njb/gh

Kpr

HIGH COURT

DATED:02/12/2024

COMMON ORDER

I.A.No. 1 of 2024

In/and

AS.No.408 of 2024



**DISMISSING THE I.A
& REJECTING THE APPEAL**

⑥ *kpa*
25/3/25