IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THURSDAY,THE FOURTH DAY OF DECEMBER TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA

CIVIL REVISION PETITION NO: 3213 OF 2018

Petition under Article 227 of the Constitution of India aggrieved by the order dated 03.11.2017 in I.A. No. 5540 of 2016 in A.S.S.R No. 20551 of 2016 on the file of the Court of the Chief Judge, City Civil Court at Hyderabad.

Between:

1. Lalitha Reddy (Died per L.R's)
2. Rhoda Revathi Reddy,, W/o Chandarkanth Shinge, Occ- House Hold, C/o Treasurer Western India Union of S.D.A P.0-1413, Salisbury Park, Pune-4110037, Maharastra.
3. Michael Reddy, S/o Late Israel Reddy, Occ- Service, H.No. Block No. 27, Flat No. 2, Vijaynagar Colony, Hyderabad-57
4. Deborah Reddy, W/o Shashikanth Shinge, Occ- Teacher, SDA Mission Compound, Salisbury Park, Opp- Mantri Estate, Pune-411037 Maharastra.
5. Myrtle Rekha Reddy, W/o David Masilamani, Occ- Teacher, Plot No. 37, Banjara Nagar, Tirumal Gherry , Secunderabad-15
6. Hazel Hemalatha Reddy, W/o Samuel Prasanna Kumar Occ- Teacher, H.No. 11-4-646/2, Flat No. 102, Green Park, Imran Manzil Lane, Opp- PTI Building, A.C. Guards, Hyderabad
7. Rebecca Rohini Reddy, W/o.Joseph Williamson, Occ-Teacher,H.No.6-105/58/59,Near Chilukuru Balaji Temple,R.R.District,Hyderabad,Telangana-501504
8. Daniel Vijay Reddy S/o Late Isreal Reddy, H.No. Block No. 27, Occ- Teacher Flat No. 2, Vijaynagar Colony, Hyderabad-57

...PETITIONERS/CLAIM PETITIONERS

AND

1. R.Indira, W/o R.Prakash Occ- Business,H.No. 3-4-376/13, Basanthnagar, Lingampally, Hyderabad
2. R.Abhinesh S/o R.Prakash Occ- Student, H.No. 3-4-376/13, Basanthnagar, Lingampally, Hyderabad

3. R.Dinesh S/o.R.Prakash Occ- Student, H.No. 3-4-376/13, Basanthnagar, Lingampally, Hyderabad

4. Padmachander W/o M.B.Chander, Occ- Business, R/o 12-4-422/42, Priya Colony, Guddi Malkapur, Hyderabad and also at Rishi Public School, Represented by Secretary, H.No.5-9-1110/3, Raj Reddy Marg, Koti, Hyderabad

...RESPONDENTS/RESPONDENTS

IA NO: 1 OF 2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent to maintain status quo as on date in relation to the subject property-admeasuring 202 sq.yards out of total extent of 607 sq.yards in municipal No.5-9-1110/3,situated at Raj Reddy Marg, King Koti Road Hyderabad, pending disposal of the present CRP.

Counsel for the Petitioners: Sri M. Pranav

Counsel for the Respondents 1 to 3: Sri S. Manjari Ganu rep. Sri Sunil B Ganu

Counsel for the Respondent No. 4: Sri Avinash Desai

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

CIVIL REVISION PETITION NO.3213 OF 2018

Date of Order : 04.12.2025

BETWEEN:

Ms.Lalitha Reddy (Died) & 7 Others ... Petitioners

AND

Ms. R.Indira & 3 Others ... Respondents

ORDER:

This Civil Revision Petition is filed by the petitioners-claim petitioners aggrieved by the order passed in IA No.5540 of 2016 in ASSR No.20551 of 2016 on the file of Chief Judge, City Civil Court, Hyderabad.

2. Heard ***Sri M.Pranav,*** learned counsel appearing on behalf of petitioners and ***Sri S.Manjari Ganu,*** learned counsel representing ***Sri B.Sunil Ganu,*** learned counsel for the respondents/plaintiffs.

3. Learned counsel for the petitioners herein are claim petitioners who earlier filed IA No.5540 of 2016 in ASSR No.20551 of 2016 under Order 41 Rule A read with Section 151 of CPC read with 5 of Limitation Act seeking to condone the delay of 49 days in preferring the appeal against the dismissal order, dated

06.06.2016 passed in EA No.363 of 2009. The trial Court after perusal of the records has dismissed the condone delay application on the ground that the reasons stated by the claim petitioners for the abnormal delay of more than one and half months is nether satisfactory nor convincing and dismissed the IA No.5540 of 2016 on 03.11.2017. Aggrieved by the same, the present revision petition is filed.

4. Learned counsel for the petitioners/claim petitioners submits that delay which is caused was on account of bonafide reason and that petitioner No.8 was suffering from jaundice and body pain since 05.07.2016 to 05.09.2016 and the doctors advised bed rest for four weeks and the delay of 49 days in filing the appeal was not deliberate but only due to medical exigency. It is contended that the trial Court ought to have taken liberal approach, as the condonation delay petition is for only 49 days and by dismissing the said condone delay petition the petitioners has lost the rightful claim over the suit schedule property and prayed this Court to allow the revision petition.

5. Learned counsel for the respondents submits that the respondents have taken over the suit schedule property through process of Court and respondents are in possession of the suit

schedule property and there is nothing further to adjudicate in this matter and the trial Court after perusing the entire records including condone delay petition and the averments made by the learned counsel on either side has rightly dismissed the application which needs no interference.

Now the point for consideration before this Court is:

i) *"Whether the trial Court has rightly rejected the condone delay application.*
ii) *Whether the petitioners have made out any substantial cause for condemning the delay of 49 days."*

Point No.1 & 2:

6. Admittedly, petitioners are not in possession of the suit schedule property and the respondents herein have taken over the possession of the suit schedule property through process of Court in terms of the order passed by the trial Court in EA No.369 of 2009, dated 06.06.2016. The petitioners preferred the appeal before the appellant Court with condonation delay of 63 days, however in the order reads it as 49 days in preferring the appeal and the same was dismissed on 03.11.2017.

7. Learned counsel for the petitioners averred that trial Court ought to have taken a liberal approach in condoning the delay, as the delay is only for 49 days and the claim petitioners are offering genuine reason with medical certificate of Doctor stating that the

petitioner No.8 was suffering from jaundice since 05.07.2016 to 05.09.2016 and the doctor had advised bed rest for four weeks. However, the trial Court ignoring the said medical certificate filed by the claim petitioners has dismissed the application on the ground that it is neither satisfactory nor convincing.

8. Learned counsel for the petitioners has relied upon the judgment of the Hon'ble Supreme Court in ***Umarer v. Pottengal Subida and others***[1] and submits that Hon'ble Supreme Court have stated that High Court should have taken liberal view in condoning the delay when the appellant has shown sufficient cause.

9. Learned counsel for the petitioners have vehemently argued and contended that the delay caused was minimum and their valuable rights over the suit scheduled property are going to be affected, if the delay is not condone, the petitioners will be subjected to great loss.

10. Per contra, learned counsel for the respondents contended that the reasons for delay are totally vague and also there is no proper explanation for the said delay and also nothing is whispered about the other petitioners, and it is not the case of the

[1] (2018) 15 SCC 127

petitioners that the petitioner No.8 is only looking after the matter on behalf of the other petitioners. As there been no such pleading, the delay caused cannot be accepted and further argued and contended that there are no merits. Even if the delay is condoned no purpose would be served as the respondents herein has taken over the suit schedule property.

11. The settled principles of law is that, an application in Section 5 of the Limitation Act has to be generally viewed in a liberal and lenient way to do the substantial justice to both the parties, and so as to advance substantial justice. ***In Shivamma (Dead) by Lrs. V. Karnataka Housing Board and others[2],*** the Hon'ble Supreme Court at Paragraph Nos.138, 139, 140 and 141 which is reproduced herein under for better understanding:

> *"138. When a Court of Law deals with an application to condone the delay filed under Section 5 of the Limitation Act, such application will have to be generally viewed in a liberal and lenient way to do substantial justice between the parties. Section 5 of the Limitation Act must be liberally construed and applied so as to advance substantial justice. It is undoubtedly true that a justice oriented approach is necessary while deciding application under Section 5 of Limitation. However, it cannot be said that in every case delay must necessarily be condoned. It is a condition precedent for Section 5 of the Limitation Act that there must be a sufficient reason for condoning the delay.*
>
> *139. However, while substantial justice must be advanced, the law of limitation is equally binding, and "sufficient cause" must be shown in substance, not in empty form. This ensures*

[2] 2025 SCC Online SC 1969

that the balance between justice and certainty is not skewed in favour of unmerited litigants.

140. However, at the same time, the courts must be mindful that strong case on merits is no ground for condonation of delay. When an application for condonation of delay is placed before the court, the inquiry is confined to whether "sufficient cause" has been demonstrated for not filing the appeal or proceeding within the prescribed period of limitation. The merits of the underlying case are wholly extraneous to this inquiry. If courts were to look into the merits of the matter at this stage, it would blur the boundaries between preliminary procedural questions and substantive adjudication, thereby conflating two distinct stages of judicial scrutiny. The purpose of Section 5 of the Limitation Act is not to determine whether the claim is legally or factually strong, but only whether the applicant had a reasonable justification for the delay.

141. Test of "sufficient cause" cannot be substituted by an examination of the merits of the case. Condonation of delay is a matter of discretion based on explanation for the delay, not on the prospects of success in the case. If merits are considered, a litigant with a stronger case may be favoured with condonation despite negligence, while a weaker case may be rejected even if sufficient cause is made out. This would lead to an inequitable and inconsistent application of the law, undermining the uniform standard that the doctrine of limitation is designed to maintain.

12. Applying the said principles to the present set of facts, it appears that trial Court without appreciating the medical certificate filed by the claim petitioners or opining anything with regard to the medical certificate, held in one line opinion that the claim petitioners ought to have filed the appeal within time and the trial Court has not assigned any cogent reasons except stating that the reasons stated by the claim petitioners is neither satisfactory nor convincing.

13. Considering the fact that the petitioner No.8 who has specifically stated that he has deposed the affidavit on behalf of all petitioners and he is the only one who is looking after the appeal on behalf of other petitioners and have suffered from jaundice. Hence, this Court is of the opinion that the trial Court ought to have taken the liberal approach while dealing the condonation delay as per the judgment of the Hon'ble Supreme Court in ***Shivamma (Dead) by Lrs. V. Karnataka Housing Board and others*** *(cited above)* and also the fact that respondents have already obtained the position of the suit schedule property through process of Court and no prejudice would be caused to the respondents and the same can be remedied by way of imposing cost on the petitioners.

14. With the above observation, Civil Revision Petition is allowed and the order passed in IA No.5540 of 2016 in ASSR No.20551 of 2016 on the file of Chief Judge, City Civil Court is set aside, subject to condition that the petitioners shall pay costs of Rs.20,000/- to the respondents herein and on such production of receipt of payment, the trial Court shall take on record the appeal and proceed to dispose the same by following due procedure as per law.

Miscellaneous petitions pending, if any, shall stand closed.

Sd/- A. JAYASREE
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Chief Judge, City Civil Court at Hyderabad.
2. One CC to Sri Avinash Desai Advocate [OPUC]
3. One CC to Sri Sunil B Ganu Advocate [OPUC]
4. One CC to Sri M.Pranav, Advocate [OPUC]
5. Two CD Copies

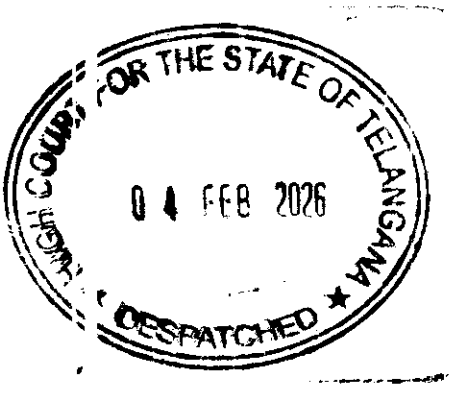
VH/PR

HIGH COURT

DATED: 04/12/2025

ORDER

CRP.No.3213 of 2018



ALLOWING THE CRP

(7)

kpr

31/12/25