

APHC010284122024



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3332]

**PRESENT:THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI
CIVIL REVISION PETITION NO: 1563/2024**

Between:

1.GADI SESHAMMA, W/o. VENKA REDDY, AGED ABOUT 60 YEARS,
R/O. 569/3-3, SINGAPETA (V), ALLUR MANDAL, SPSR NELLORE
DISTRICT,

...PETITIONER

AND

1.PERAKAM SRINIVASULU, S/O. SOMAIAH, UPSTAIRS OF SRI RAMA
OPTICALS, TRUNK ROAD, NELLORE, SPSR NELLORE DISTRICT.

...RESPONDENT

Petition under Article 227 of the Constitution of India,praying that in the
circumstances stated in the grounds filed herein,the High Court may be
pleased to

IA NO: 1 OF 2024

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
pleased to grant interim suspension of the Order passed in IA. No. 668/2023
in C.F.No. 4069/2023 in C.F.No. 4969/2017 which were passed on 4-10- 2023
and further amended on 26-03-2024 by the Principal Senior Civil Judge
Nellore, pending disposal of the above CRP and pass

Counsel for the Petitioner:

1.N.S.V.ROHIT

RESERVED ON 13.03.2026

PRONOUNCED ON 31.03.2026

UPLOADED ON 02.04.2026

ORDER

This Civil Revision Petition is filed questioning the legality and correctness of the orders dated 04.10.2023 passed in I.A.No.668 of 2023 in C.F.No.4069 of 2023 in C.F.No.4969 of 2017.

2. The facts in brief that led to filing of this Civil Revision Petition are that the petitioner filed petition under sections 148 & 151 of CPC to condone the delay of five years seven months and fifteen days in re-presenting the suit contending that the file was missing. The learned trial Judge dismissed the said application. The said dismissal order has been assailed in this Civil Revision Petition.

3. Heard Sri N.S.V.Rohit, learned counsel for the petitioner.

4. Sri N.S.V.Rohit, learned counsel for the petitioner, while reiterating the contents of the grounds of revision would contend that the petitioner is an aged lady from a rural village and she was under the impression that her counsel was looking after her case and she would be informed whenever necessity arises. He would further contend that the petitioner's counsel in trial Court died and the petitioner has no information of her death and entrustment of files of her Advocate to various other Advocates and thus there was a delay in representing the suit. He would further contend that the lower court did not consider the directions of the Hon'ble Supreme Court that the period from 15.03.2020 to 28.02.2022 shall stand excluded for the

purpose of limitation and also the dictum of Hon'ble Supreme Court that the Courts should be liberal while dealing with the petitions to condone delay and erroneously dismissed the petition. He would further contend that whenever a party selects his Advocate and briefed him and paid his fees remain supremely confident that his lawyer will look after his interest and likewise the innocent petitioner hailed from rural area imposing confidence upon her counsel did not enquire about the proceedings, however, after a long time she came to know that her counsel died, however, the court below without even affording an opportunity to the counsel a hearing, dismissed the petition and therefore, the impugned order is unsustainable and the same has to be set aside. Accordingly, prayed to allow the Civil Revision Petition.

In support of his contentions, the learned counsel relied on the orders dated 22.07.2022 passed in OP (C) No.281 of 2022 of the High Court of Kerala at Ernakulam.

5. Perused the material available on record and considered the submissions made by learned counsel for the petitioner.

6. The impugned order says that while arguing the matter the learned counsel for the petitioner very casually pleaded that delay of five years seven months fifteen days was caused due to missing of the file. The order further states that upon perusal, the petition affidavit is simply printed proforma wherein after striking of the contents of the printed proforma the words

missing of file was written. It is also noted down in the impugned order that earlier the plaint was returned twice and on both the occasions the same was represented with delay condonation petitions for condoning the delay of 30 days and the said petitions were allowed liberally. In view of the same, the learned trial Judge, considering that the behaviour of the petitioner in filing delay condonations being habitual and as no cause was shown in the affidavit for the delay except mentioning missing of file without even particulars as to where it was misplaced whether in the office of the Court or in the office of the counsel, dismissed the petition.

7. The initial remark made by the learned trial Court that the learned counsel was very casual in pleading the cause for delay in a way buttress one of the grounds raised in the civil revision petition that the learned counsel for the petitioner has not been heard, else, the factum of death of the counsel who initially filed the plaint would have been mentioned in the impugned orders.

8. Since the counsel that had originally presented the plaint in the court died and her case files were entrusted to other Advocates, the chance of missing of returned plaint in her office cannot be ruled out. Apart from the above, there was intervention of covid pandemic in the meantime, which had a profound, lasting, and in many cases devastating impact on lives, economies, and social structures worldwide.

9. In the decision relied on by the learned counsel for the petitioner, there is a reference of the decision of the Hon'ble Supreme Court in ***Collector, Land Acquisition, Anantnag v. Katiji*** (AIR 1987 (SC) 1353) wherein it has been emphatically held that courts should take a liberal, justice-oriented, justifiable and reasonable approach in condoning the delay. The Courts have been reminded that a party, who, as per the present adversarial legal system, has selected his advocate, briefed him and paid his fees can remain supremely confident that his lawyer will look after his interest and such an innocent party who has done everything in his power and expected of him, should not suffer for the inaction, deliberate omission or misdemeanour of his counsel.

10. It is fairly settled that while dealing with delay condonation petitions, the "sufficient cause" for the delay is more critical than the length of the delay. If the cause is sufficient and bona fide, a long delay can be condoned.

11. In the instant case though the delay is more than five years, however, considering the facts that the petitioner is from a rural background and the counsel to whom she entrusted her case died and case files of her office were entrusted to other Advocates and also the intervention of covid pandemic intermittently, this Court is of the considered view that the cause shown by the petitioner of 'missing of file', in the peculiar facts and

circumstances of the case can be construed as a suffice cause explaining the delay, though huge. The impugned order is liable to be set aside.

12. Accordingly, the Civil Revision Petition is allowed setting aside the impugned order. The petition in I.A.No.668 of 2023 shall stand allowed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

31st March, 2026.

JUSTICE RAVI CHEEMALAPATI
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