

APHC010443402022



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

[3457]

TUESDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

**THE HONOURABLE SRI JUSTICE HARINATH.N
CIVIL REVISION PETITION NO: 1974/2022**

Between:

1. GUDURI VENKATA SUNIL KUMAR, S/O LATE RAGHURAMA MURTHY, AGED ABOUT 48 YEARS, OCC. UNEMPLOYED, R/O H. NO. C-7-103, SIMHAPURI COLONY, NAGARAM, KEESARA MANDAL, MEDCHAL MALKAJGIRI DISTRICT.

...PETITIONER

AND

1. GUDURI BHAVANI, W/o Venkata Sunil Kumar, Aged about 39 years, D/o Alwarsetty Subbaratnam (Retd. Teacher) Chejerla Village and Mandal, 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 Aggrieved by the common order dated 4.4.2022 in IA No. 23 of 2017 in HMOP No. 82 of 2007 on the file of the I Addl. Senior Civil Judge, Nellore, the petitioner herein begs to present this Memorandum of Civil Revision petition

IA NO: 1 OF 2022

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 condone the delay of 2 days in filing the C.R.P against the decree and judgment dt. 04.04,2020 passed in I.A.No.23 of 2017 in H.M.O.P.No.82 of 2007 on the file of the I Addl. Senior Civil Judge, Nellore and to pass

Counsel for the Petitioner:

1. P SRIDHAR REDDY

Counsel for the Respondent:

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APHC010442432022



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

[3457]

TUESDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

**THE HONOURABLE SRI JUSTICE HARINATH.N
CIVIL REVISION PETITION NO: 1987/2022**

Between:

1. GUDURI VENKATA SUNIL KUMAR, S/O LATE RAGHURAMA MURTHY, AGED ABOUT 48 YEARS, OCC. UNEMPLOYED, R/O H. NO. C-7-103, SIMHAPURI COLONY, NAGARAM, KEESARA MANDAL, MEDCHAL MALKAJGIRI DISTRICT.

...PETITIONER

AND

1. GUDURI BHAVANI, W/o Venkata Sunil Kumar, Aged about 39 years, D/o Alwarsetty Subbaratnam (Retd. Teacher) Chejerla Village 86 Mandal, 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 Aggrieved by the common order dated 4.4.2022 in IA No. 21 of 2017 in HMOP No. 12 of 2008 on the file of the I Addl. Senior Civil Judge, Nellore, the petitioner herein begs to present this Memorandum of Civil Revision petition

IA NO: 1 OF 2022

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 condone the delay of 2 days in filing the C.R.P against the decree and judgment dt. 04.04.2020 passed in I.A.No.21 of 2017 in H.M,O,P.No.12 of 2008 on the file of the I Addl. Senior Civil Judge, Nellore and to pass

Counsel for the Petitioner:

1. P SRIDHAR REDDY

Counsel for the Respondent:

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COMMON ORDER:

1. The Civil Revision Petition Nos.1974 of 2022 and 1987 of 2022 are filed by the petitioner, aggrieved by the common docket order passed in I.A.No.21 of 2017 in H.M.O.P No.12 of 2008 and I.A.No.23 of 2017 in H.M.O.P No. 82 of 2007, passed by the I Additional Senior Civil Judge, Nellore, on 04.04.2022.
2. The petitioner is the husband of the respondent in H.M.O.P.No.12 of 2008 filed for dissolution of the marriage. The wife has filed H.M.O.P No.82 of 2007 seeking the relief of restitution of conjugal rights.
3. The learned counsel appearing for the petitioner submits that H.M.O.P No.12 of 2008 was dismissed for non-prosecution. The petitioner filed C.M.A No.1033 of 2011, and this Court, *vide* order dated 23.12.2013, had allowed the CMA. This Court, in C.M.A.M.P No.1819 of 2011, granted interim stay. It is submitted that the CMA was allowed, and the same could not be communicated by the learned counsel to the petitioner, as the petitioner's father was in constant touch with the learned counsel appearing for the petitioner. It is submitted that the petitioner's father passed away during that point of time, and the learned counsel could not inform the petitioner about the allowing of C.M.A.No.1033 of 2011, which required the petitioner to pursue H.M.O.P.No.12 of 2008 pending on the file of the I Additional Senior Civil Judge, Nellore.

4. It is submitted that H.M.O.P No.12 of 2008 was dismissed and H.M.O.P No.82 of 2007 was allowed on 24.07.2015. It is also submitted that the petitioner could not appear and contest H.M.O.P No.82 of 2007 on merits and could not pursue H.M.O.P.No.12 of 2008 filed by him seeking dissolution of marriage, and on account of the absence of the petitioner, the learned Judge had dismissed the OP filed by the petitioner and allowed the OP filed by the wife of the petitioner. The petitioner filed I.A.No.21 of 2017 and I.A.No.23 of 2017 seeking condonation of delay in filing applications for restoring the H.M.O.Ps to file.

5. The learned counsel for the petitioner further submits that the wife did not appear before the Court inspite of service of notice. The same is also recorded by the learned I Additional Senior Civil Judge, Nellore, in the order passed. It is submitted that the learned Judge, without passing a reasoned order on the maintainability or otherwise of the petitions filed by the petitioner seeking Condonation of delay, has instead referred to various judgments of the Hon'ble Supreme Court and held that the petitions are dismissed.

6. The notice ordered by this Court on the respondent in both the CRPs is returned unserved with an endorsement "party refused". The respondent has refused the notices sent. As such, the service of notice is held sufficient, and the CRPs are decided in the absence of the respondent.

7. Heard the learned counsel for the petitioner and perused the record.

8. The learned Judge has observed in the order that the respondent had initially caused appearance and filed a counter, and after the petitioner examined himself as PW1, the learned counsel appearing for the respondent before the I Additional Senior Civil Judge, Nellore, had reported no instructions. Fresh notices were ordered on the respondent, which were returned unserved with an endorsement "refused". Accordingly, the learned Judge had set the respondent ex parte in the petitions filed by the petitioner seeking condonation of delay.

9. The learned Judge has also extracted the averments of the petitioner in the affidavit filed by the petitioner seeking condonation of the delay. The petitioner had also submitted the medical records relating to his father, who was sick and under treatment from 03.12.2014. The petitioner had also stated in the affidavit that the petitioner's father expired on 30.12.2016 and that his counsel appearing before the I Additional Senior Civil Judge Court, Nellore, had also expired on 30.09.2015.

10. All that is stated by the learned Judge in the order under challenge is that the petitioner had not shown any diligence in prosecuting his case and that the circumstances submitted by the petitioner with regard to the death of the petitioner's father and the learned counsel appearing for him before the trial Court cannot be considered as compelling circumstances for not pursuing the case. The learned Judge has relied on the judgments of the Hon'ble Supreme Court and without passing the order on merits by assigning

reasons as to why the I.A's seeking condonation of delay are not maintainable had in a single stroke held that the I.A's are dismissed.

11. On the facts of this case, the reasons submitted by the petitioner for non-perusing the case filed by him are genuine and trustworthy. The petitioner evidently had to rely upon the update so received from his counsel appearing in the trial Court. When the counsel appearing for the petitioner had passed away, the petitioner had no other source for updating himself on the status of the case filed by him. It is also pertinent to note that the petitioner's father had passed away during that point of time. These circumstances ought to have been considered by the learned Judge while deciding the matter on merits.

12. It is no doubt the party seeking condonation of delay ought to be more prudent and diligent in pursuing matters. It is also a settled law that a party seeking condonation of delay must explain the delay in an adequate and sufficient manner. The judgment of the Hon'ble Supreme Court requiring the party seeking to condone the delay on a day-to-day basis has to be read into the facts of cases wherein the parties have deliberately delayed the due process of Court and have filed applications seeking condonation of delay after a long period for purpose of dragging on the matters.

13. On the facts of this case, the petitioner has filed H.M.O.P No.12 of 2008 seeking dissolution of marriage. On account of the changed circumstances, he could not pursue the matter appropriately. The petitioner

can be considered as a victim of circumstances for not having followed up the matter. The explanation submitted by the petitioner seeking condonation of delay is adequate and trustworthy.

14. On these considerations, this Court is of the considered view that the CRPs deserves to be allowed and the petitioner is permitted to file and follow up the applications seeking restoration of the H.M.O.P No.12 of 2008 and H.M.O.P No.82 of 2007 to the file of the I Additional Senior Civil Judge, Nellore.

15. With these observations, both the CRP's are allowed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE HARINATH.N

Date:31.03.2026
NKA

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THE HONOURABLE SRI JUSTICE HARINATH.N

CIVIL REVISION PETITION NOS: 1974 & 1987 of 2022

Date: 31.03.2026

NKA