

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**I.A.No. 1 OF 2018 IN SECOND APPEAL No. 1503 OF 2018**

Between:

N.Srinivasa Rao,
S/o late N.Chandrasekhar Rao,
Hindu, 54 years, Advocate,
R/o 281, New Street, Tirupati,
Chittoor District, and another
AND

... Petitioners/Appellants

P.Chandrasekharaiah (Died),
S/o C.Krishnaiah, and others

... Respondents/Respondents

Date of Order Pronounced : 12-03-2026

SUBMITTED FOR APPROVAL:**THE HON'BLE SRI JUSTICE V.GOPALA KRISHNA RAO**

1. Whether Reporters of Local newspapers may be allowed to see the order? Yes/No
2. Whether the copy of order may be marked to Law Reporters/Journals? Yes/No
3. Whether His Lordship wishes to see the fair copy of the order? Yes/No

V.GOPALA KRISHNA RAO, J.

THE HON'BLE SRI JUSTICE V.GOPALA KRISHNA RAO*+I.A.No. 1 OF 2018 IN SECOND APPEAL No. 1503 OF 2018****%Dated: 12-03-2026**

#N.Srinivasa Rao,

S/o late N.Chandrasekhar Rao,

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... Petitioners/Appellants

VERSUS

\$P.Chandrasekharaiah (Died),

S/o C.Krishnaiah, and others

... Respondents/Respondents

!Counsel for the petitioners : Sri Srinivasulu Kurra**^Counsel for respondent No. 5 : Sri K.Chenna Reddy****^Counsel for respondent No. 6 : Sri Satish Sandu****<GIST:****>HEAD NOTE:****? Cases referred:**

1. 2025 LiveLaw (SC) 339
2. (2025) 1 SCC 625

ORDER:

The petitioners/appellants are the appellants in A.S.No. 74 of 2011 on the file of the Court of learned X Additional District Judge, Tirupati (for short, 'the first appellate Court') and they filed execution application in E.A.No. 184 of 2009 in E.P.No. 150 of 2005 in O.S.No. 155 of 1980 on the file of the Court of learned Principal Junior Civil Judge, Tirupati (for short, 'the executing Court'). After inquiry, the executing Court dismissed the said execution application, against which appeal suit in A.S.No. 74 of 2011 was preferred before the first appellate Court and the said appeal suit was also dismissed by confirming the decree and judgment passed by the executing Court, against which the instant second appeal in S.A.No. 1503 of 2018 has been filed before this Court with a delay of 277 days and that the petitioners filed this application to condone the delay of 277 days in filing the second appeal.

2. The case of the petitioners as per the recitals of affidavit of petitioner No. 1, in brief, is as follows:

The petitioner pleaded that immediately on obtaining copies of decree and judgment, his advocate at Tirupati forwarded the same to one S.A.Chari, advocate in Hyderabad to prefer appeal but unfortunately the said S.A.Chari died due to cardiac arrest before its filing and it was not aware to the petitioners till recently when it was informed that the advocate in Hyderabad was no more and then, the petitioners went to Hyderabad and took the case file back for engaging another advocate. Thus, there is delay in preferring the present second appeal.

3. Respondent No. 5 filed counter affidavit. The brief averments are as follows:

After examining the documents filed and evidence recorded, the executing Court had given detailed and reasoned findings holding that E.A.No. 184 of 2009 was not maintainable. In the appeal suit also, the first appellate Court concurred with the findings of the executing Court holding that the petitioners' alleged title or interest does not require consideration since the

properties are entirely different. The petitioners seek condonation of an inordinate and unexplained delay of 277 days beyond the statutory period of 90 days prescribed for filing the second appeal. Such delay is neither *bona fide* nor supported by any convincing or acceptable explanation. The explanation offered by the petitioners that he entrusted the papers to one S.A.Chari, advocate in Hyderabad, and that he did not verify whether the second appeal has been filed or not for nearly more than one year is false, improbable and wholly unacceptable, particularly in view of the admitted fact that petitioner No. 1 himself is a practicing advocate at Tirupati, fully conversant with the law of limitation, procedural requirements and statutory timelines. The further claim that the petitioners came to know about the demise of the said advocate only through third parties is equally unbelievable. Being a practicing advocate, petitioner No. 1 was expected to exercise due diligence, reasonable care and professional responsibility, especially in respect of his personal litigation. His complete inaction for more than one year clearly amounts to gross negligence and lack of *bona fides*. Ignorance of law is no excuse, more so when the litigant himself is a member of the legal profession. The petitioners have sufficient opportunity, knowledge and means to inquire about the filing of the appeal but failed to do so and is therefore not entitled to any discretionary relief.

4. Respondent No. 6 filed counter affidavit *inter alia* contending that the petitioners failed to establish sufficient cause, absence of negligence or *bona fides* which are mandatory requirements for condonation of delay and granting condonation in such circumstances would cause serious prejudice to the respondents and defeat the very object of the law of limitation. Respondent No. 6 further pleaded that the delay petition filed by the petitioners is a clear abuse of process of law, filed only to protract the litigation and unsettle the final and concurrent findings recorded by both the Courts below.

5. Heard Sri Kurra Srinivasulu, learned counsel appearing for the petitioners, Sri K.Chenna Reddy, learned counsel appearing for respondent No. 5, and Sri Satish Sandu, learned counsel appearing for respondent No. 6.

6. Now, the point that arises for consideration is

"Whether the petitioners have shown any sufficient cause to condone the delay of 277 days in filing the second appeal?"

7. The undisputed facts are that the petitioners herein are the petitioners in E.A.No. 184 of 2009 in E.P.No. 150 of 2005 in O.S.No. 155 of 1980 on the file of the executing Court. The petitioners filed E.A.No. 184 of 2009 under Order XXI Rule 99 of the Code of Civil Procedure to inquire into their right, title or interest over the petition schedule property and to pass a decree in their favour. The said E.A.No. 184 of 2009 was dismissed, on contest by both the parties, by the executing Court on 15-03-2011 which was confirmed by the first appellate Court by decree and judgment dated 11-09-2017 on contest by both the parties. The petitioners herein filed the present second appeal along with I.A.No. 1 of 2018 to condone the delay of 277 days *i.e.* more than 9 months in filing the present second appeal.

8. The petitioners contended that immediately on obtaining the copies of decree and judgment, their advocate at Tirupati forwarded the same to one Sri S.A.Chari, advocate in Hyderabad, to prefer an appeal. As seen from the material on record, the copy application, for obtaining certified copies of decree and judgment in A.S.No. 74 of 2011, was filed on 12-09-2017, it was returned on 09-10-2017 and it was represented by the petitioners on 01-12-2017 and the copies were delivered on 06-12-2017. There is no whisper in the affidavit of the petitioners with regard to the date when they forwarded the copies of decree and judgment to the advocate at Hyderabad to prefer an appeal. There is also no whisper in the affidavit of the petitioners with regard to the date when the advocate in Hyderabad has died. There is no mention in the affidavit of the petitioners with regard to the date or month or at least through whom the petitioners came to know about the death of the advocate in Hyderabad.

9. As stated *supra*, the first appellate Court delivered judgment on 11-09-2017. The petitioners filed copy application on 12-09-2017, it was returned on 09-10-2017 and it was represented by the petitioners on 01-12-2017 and obtained certified copies on 06-12-2017 but the instant second appeal was filed on 20-09-2018. The petitioners are not illiterates. Petitioner No. 1 is an advocate, well versed with legal knowledge, and petitioner No. 2 is none other than younger brother of petitioner No. 1. The material on record including the affidavit of petitioner No. 1 would reveal that petitioner No. 1 is a practicing advocate at Tirupati. It is brought to the notice of this Court by learned counsel appearing for the respondents that petitioner No. 1 herein is practicing as an advocate having considerable practice of 20 years standing in Tirupati and the same is not denied by the petitioners. It is therefore evident that petitioner No. 1 is fully conversant with the law of limitation, procedural requirements and the statutory time limit to file a second appeal.

10. It is contended by the petitioners that because of communication gap, they were under the impression that the appeal was filed within time. As noticed *supra*, petitioner No. 1 herein is a practicing advocate at Tirupati and he is not an illiterate and petitioner No. 1 is fully conversant with the law of limitation, procedural requirements and the statutory time limit for filing the second appeal. Being a practicing advocate, petitioner No. 1 was expected to exercise due diligence, reasonable care and professional responsibility, especially in respect of his personal litigation. Therefore, the complete inaction on the part of the petitioners is nothing but a gross negligence.

11. Learned counsel appearing for the petitioners has placed reliance on the judgment of the Hon'ble Apex Court rendered in ***Inder Singh Vs. State of Madhya Pradesh***¹. The facts in the aforesaid case law are that a suit was filed before the trial Court by the appellants seeking the relief of declaration of title and permanent injunction in respect of immovable property. After full-

¹ 2025 LiveLaw (SC) 339

fledged trial, the said suit was dismissed by the trial Court and thereupon, the appellants filed a civil appeal before learned Additional District Court and the same was allowed by judgment dated 01-10-2015 by setting aside the judgment of the trial Court dated 16-08-2013. The respondent therein filed a review petition *viz.*, Review Petition No. 92 of 2018 before the first appellate Court which was dismissed on the ground of delay in filing review petition. The facts in the present case are that the petitioners filed E.A.No. 184 of 2009 before the executing Court and after full-fledged inquiry, the same was dismissed on merits by the executing Court and the same was confirmed by the first appellate Court and the instant second appeal has been filed by the petitioners with a delay of 277 days. As noticed *supra*, petitioner No. 1 herein is not an illiterate and he is a practicing advocate at Tirupati. Therefore, the facts and circumstances in the aforesaid case law relied upon by learned counsel appearing for the petitioners are not at all applicable to the facts and circumstances in the present case. In the case at hand, petitioner No. 1 is not an illiterate and he is a legal practitioner having considerable practice at Tirupati and he is well conversant with legal knowledge, law of limitation, procedural requirements and the statutory time limit for filing the second appeal.

12. It is well settled that the discretion to condone delay has to be exercised judiciously based on the facts and circumstances of each case. It is also equally well settled that even though limitation may harshly affect the rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the Courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds.

13. In ***Pathapati Subba Reddy (died) by L.Rs. and others Vs. Special Deputy Collector (L.A.)***², the Apex Court held as follows:

"26. *On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that*

² (2025) 1 SCC 625

- (i) *Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;*
- (ii) *A right or the remedy that has not been exercise or availed of for a long time must come to an end or cease to exist after a fixed period of time;*
- (iii) *The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;*
- (iv) *In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;*
- (v) *Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;*
- (vi) *Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the Court is not satisfied with the cause sown for the delay in filing the appeal;*
- (vii) *Merits of the case are not required to be considered in condoning the delay; and*
- (viii) *Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamount to disregarding the statutory provision."*

14. In the case at hand, the second appeal has been filed with a delay of 277 days. ***The law on this issue is very much clear that where a case has been presented in the Court beyond limitation, the applicant has to explain the Court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the Court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No Court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by the Apex Court in regard to the condonation of delay.***

15. Considering the ratio laid down in the aforesaid case law and considering the peculiar facts and circumstances of the case, this Court is of the considered view that the expression sufficient cause as occurring in Section 5 of the Limitation Act, 1963, cannot be liberally interpreted if negligence, inaction or lack of *bona fides* are in favour of the petitioner. In the present case, there are several laches on the part of the petitioners and there is clear negligence and inaction in pursuing the matter. In such circumstances, the delay cannot be condoned liberally. The application is devoid of any merit and the same is liable to be dismissed.

16. In the result, I.A.No. 1 of 2018 is dismissed. Consequently, S.A.No. 1503 of 2018 stands rejected. Pending miscellaneous applications, if any, shall stand dismissed in consequence. No costs.

V. GOPALA KRISHNA RAO, J.

12th March, 2026.
JSK

HONOURABLE SRI JUSTICE V.GOPALA KRISHNA RAO

I.A.No. 1 OF 2018
IN
S.A.No. 1503 OF 2018

12th March, 2026
(JSK)