

Date on which Judgment was reserved : 23.01.2026  
Date on which Judgment was pronounced : 24.02.2026  
Date on which Judgment was uploaded on the website of the High Court : 24.02.2026

APHC010417912025



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

**[3327]**

**TUESDAY, THE TWENTY FOURTH DAY OF FEBRUARY  
TWO THOUSAND AND TWENTY SIX**

**PRESENT**

**THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY**

**CIVIL REVISION PETITION NO: 2158/2025**

**Between:**

1. VELPULA RAMACHANDRAIAH, S/O. VENKATAIAH, AGED. 75 YEARS, HINDU, RETIRED EMPLOYEE, R/O.D.NO. 51/96-E, SAI RAM STREET, KOTHAPETA, RAYACHOTY TOWN AND MANDAL, KADAPA DISTRICT.

**...PETITIONER**

**A N D**

1. PULAPATTURU VENKATRAMANA, S/O. LATE ADINARAYANA, AGED. 49 YEARS, HINDU, WORKING IN INDIAN ARMY, 10 IDSR, C/O. 56 APO, AKNUR DISTRICT, JAMMU AND KASHMIR STATE, PERMANENT ADDRESS DOOLLAVARIPALLI VILLAGE, CHENNAMUKKAPALLI POST, RAYACHOTY TOWN AND MANDAL, KADAPA DISTRICT
2. PULAPATTURU NIRMALA, W/O. YERRAGUNTA SREENIVASULU, D/O. LATE ADINARAYANA, AGED. 46 YEARS, HINDU, HOUSE WIFE, R/O. KUMMARAPALLI, SIBAYALA VILLAGE AND POST, RAYACHOTY MANDAL, KADAPA DISTRICT.
3. PULAPATTURU HARITHA, D/O. LATE ADINARAYANA, AGED- 25 YEARS. HINDU, DOOLLAVARIPALLI VILLAGE, CHENNAMUKKAPALLI POST, RAYACHOTY TOWN AND MANDAL, KADAPA DISTRICT.
4. PULAPATTURU JAYAMMA, W/O. LATE ADINARAYANA, AGED. 79 YEARS ( D-1), HINDU, DOOLLAVARIPALLI VILLAGE, CHENNAMUKKAPALLI POST, RAYACHOTY TOWN AND MANDAL, KADAPA DISTRICT.
5. NALLAMALA NAGESWARI, W/O. ANJANEYULU, AGED. 40

YEARS, ( D-2), HINDU, DOOLLAVARIPALLI VILLAGE,  
CHENNAMUKKAPALLI POST, RAYACHOTY TOWN AND  
MANDAL, KADAPA DISTRICT.

**...RESPONDENT(S):**

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 allow the C.R.P by setting aside the order dated 08.07.2025 passed I.A.No. 304/2025 in OS.NO. 77/2011 on the file of Sr. Civil Judge, Rayachoty by allowing the same and pass

**IA NO: 1 OF 2025**

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 grant STAY of operation of the order and decretal order I.A.No. 931 of 2018 in Original Suit No. 77 of 2011 on the file of Senior Civil Judge, Rayachoty during pendency of the CRP and pass

**Counsel for the Petitioner:**

1.A SYAM SUNDAR REDDY

**Counsel for the Respondent(S):**

1.SAI MANOJ REDDY L

**The Court made the following:**

**THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY**  
**CIVIL REVISION PETITION NO: 2158 OF 2025**

**ORDER:**

The petitioner/defendant No.3 filed the present Revision Petition, challenging the Order dated 08.07.2025 passed in I.A.No.304 of 2018 in O.S.No.77 of 2011 by the learned Senior Civil Judge, Rayachoty (hereinafter referred to, as 'the Trial Court'), whereby and whereunder, petition filed by the Revision Petitioner/defendant No.3 under Section 5 of the Limitation Act, 1963 (for brevity 'the Act, 1963') read with Section 151 of the Code of Civil Procedure, 1908 (for brevity 'CPC') to condone the delay of 1813 days in filing the petition under Order IX Rule 13 of CPC, to set-aside the *ex parte* decree dated 18.07.2013, was dismissed.

2. Revision Petitioner is the defendant No.3, and respondent Nos.1 to 3 are plaintiff Nos.1 to 3, and respondent Nos.4 and 5 are defendant Nos.1 and 2, in O.S.No.77 of 2011. Parties in the present Revision Petition are hereinafter referred to, as they were arrayed in the suit.

3. Plaintiff Nos.1 to 3 filed O.S.No.77 of 2011 against the defendant Nos.1 to 3 on the file of the learned Senior Civil Judge, Rayachoty, seeking the relief of Partition of plaintiff schedule

property into six equal shares and to allot one such share to each of the plaintiff and for separate possession of the same. The defendants remained *ex parte* in the said suit. Subsequently, an *ex parte* preliminary decree was passed in the suit on 18.07.2013. Later, the defendant No.3 filed I.A.No.304 of 2018 under Section 5 of the Act, 1963 read with Section 151 of CPC to condone the delay of 1813 days in filing the petition under Order IX Rule 13 of CPC to set-aside the *ex parte* preliminary decree, dated 18.07.2013 passed in O.S.No.77 of 2011. The Trial Court *vide* Order, dated 08.07.2025 dismissed I.A.No.304 of 2018 observing as under:

*“Heard both sides. Perused the record. Petitioner submitted to condone delay of 1813 days in filing petition under Order IX Rule 13 CPC in O.S.No.77 of 2011. No reasons properly explained by the petitioner in filing petition under Order IX Rule 13 CPC after lapse of 1813 days. The reasons assigned by him are, before getting ex parte decree. Further opportunity given to petitioner vide I.A.No.303 of 2018 in I.A.No.931 of 2015 (Final Decree petition) by setting aside ex parte order against petitioner. Viewing in any angle, petitioner not come up with satisfying reasons. Hence, the petition is dismissed in the interest of justice.”*

Aggrieved by the same, the present Revision Petition was filed by defendant No.3.

4. It is the contention of learned counsel for defendant No.3 that after receipt of summons, defendant No.3 approached

the plaintiffs and defendant Nos.1 and 2 with regard to sale of item Nos.1 and 2 of schedule property, purchased by defendant No.3 from the father of plaintiffs, defendant No.2 and husband of defendant No.1, under a Registered Sale Deed, dated 21.06.2008. In that connection, the elders held a panchayat among the parties to the suit, and in the said panchayat, plaintiffs and defendant Nos.1 and 2 promised that they would withdraw the suit in respect of property mentioned in the Registered Sale Deed dated 21.06.2008, but the plaintiffs obtained a collusive *ex parte* preliminary decree in their favour, behind the back of defendant No.3, on 18.07.2013. Learned counsel further contends that the defendant No.3 did not prosecute the suit proceedings due to the said promise made by the plaintiffs.

5. Learned counsel for plaintiffs would contend that the defendant No.3 received summons from the Court and he got knowledge about the suit proceedings in O.S.No.77 of 2011 before the trial Court. It is further contended that the plaintiffs filed I.A.No.930 of 2015 under Order XXVI Rule 13 of CPC and I.A.No.931 of 2015 under Order XX Rule 18 of CPC to appoint an Advocate-Commissioner for division of schedule property and for passing of Final Decree. Accordingly, the Advocate-Commissioner was appointed, and he executed the warrant and filed report.

Learned counsel would further contend that the defendant No.3 is well aware of the pendency of suit proceedings before the trial Court, but he remained *ex parte* and did not turn up, and filed petition to condone the abnormal delay of 1813 days at a belated stage in filing application under Order IX Rule 13 of CPC, without any sufficient cause. According to the learned counsel the finding arrived by the trial Court is on correct lines and prays the Court to dismiss the Revision Petition.

6. Heard the learned counsel for the Revision Petitioner/ defendant No.3 and learned counsel for the respondent Nos.1 to 3/plaintiffs. Perused the entire material available on record.

7. The point that arises for consideration in this Civil Revision Petition is *“Whether the impugned Order dated 08.07.2025 in I.A.No.304 of 2018 in O.S.No.77 of 2011 passed by the learned Senior Civil Judge, Rayachoty suffers from any perversity, illegality, irregularity or impropriety of law requiring any interference of this Court?”*

8. Learned counsel for the defendant No.3 would contend that it is not the length of delay that requires to be considered while examining the plea for condonation of delay occurred in filing Order IX Rule 13 CPC when the cause for delay

falls within four corners. As the plaintiffs promised defendant No.3 that they would withdraw the suit, the defendant No.3 did not pursue the case proceedings and such cause for delay was within four corners. Therefore, the delay was properly explained and there is sufficient cause, and as such, the Court has to view liberally so as to advance substantial justice. He placed strong reliance on the proposition of law laid down in **Mool Chandra v. Union of India and another**<sup>1</sup>, wherein the Hon'ble Supreme Court held as under: (paragraph No.20)

“20. Be that as it may. On account of liberty having been granted to the appellant to pursue his remedy in accordance with law, yet another OA No.2066 of 2020 along with an application for condonation of delay came to be filed. The delay was not condoned by the Tribunal on the ground that it was filed more than one year after the impugned order came to be passed. No litigant stands to benefit in approaching the courts belatedly. It is not the length of delay that would be required to be considered while examining the plea for condonation of delay, it is the cause for delay which has been propounded will have to be examined. If the cause for delay would fall within the four corners of “sufficient cause”, irrespective of the length of delay same deserves to be condoned. However, if the cause shown is insufficient, irrespective of the period of delay, same would not be condoned.”

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<sup>1</sup> (2025) 1 Supreme Court Cases 625 : 2024 SCC OnLine SC 1878.

Learned counsel for the defendant No.3 also placed reliance on the proposition of law laid down in **K.Subbarayudu and others v. Special Deputy Collector (Land Acquisition)**<sup>2</sup>, wherein the Hon'ble Apex Court at paragraph No.11 held as under:

“11. The term “sufficient cause” is to receive liberal construction so as to advance substantial justice, when no negligence, inaction or want of bona fides is attributable to the appellants, the Court should adopt a justice-oriented approach in condoning the delay. In **State of Nagaland v. Lipok ((2005) 3 SCC 752 : 2005 SCC (Cri) 906)**, it was held as under: (SCC P.757, para 8)

“8. ... Section 5 is to be construed liberally so as to do substantial justice to the parties. The provision contemplates that the court has to go in the position of the person concerned and to find out if the delay can be said to have resulted from the cause which he had adduced and whether the cause can be recorded in the peculiar circumstances of the case as sufficient.”

9. On the other hand, learned counsel for the plaintiffs would contend that while condoning the delay, the Courts has to look into as to whether sufficient cause is shown by the party or not and it is a condition precedent. He placed reliance on the proposition of law laid down in **State of Nagaland v. Lipok AO**

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<sup>2</sup> (2017) 12 Supreme Court Cases 840 : (2017) 5 Supreme Court Cases (Civ) 378 : 2017 SCC OnLine SC 768.

**and others**<sup>3</sup>, wherein the Hon'ble Supreme Court held as under:  
(paragraph Nos.8 and 9)

“8. The proof by sufficient cause is a condition precedent for exercise of the extraordinary restriction (sic discretion) vested in the court. What counts is not the length of the delay but the sufficiency of the cause and shortness of the delay is one of the circumstances to be taken into account in using the discretion. In **N.Balakrishnan v. M.Krishnamurthy ((1998) 7 SCC 123 : AIR 1998 SC 3222)** it was held by this Court that Section 5 is to be construed liberally so as to do substantial justice to the parties. The provision contemplates that the court has to go in the position of the person concerned and to find out if the delay can be said to have resulted from the cause which he had adduced and whether the cause can be recorded in the peculiar circumstances of the case as sufficient. Although no special indulgence can be shown to the Government which, in similar circumstances, is not shown to an individual suitor, one cannot but take a practical view of the working of the Government without being unduly indulgent to the slow motion of its wheels.

9. What constitutes sufficient cause cannot be laid down by hard-and-fast rules. In **New India Insurance Co.Ltd. v. Shanti Misra ((1975) 2 SCC 840)** this Court held that discretion given by Section 5 should not be defined or crystallised so as to convert a discretionary matter into a rigid rule of law. The expression “sufficient cause” should receive a liberal construction. In **Brij Indar Singh v. Kanshi Ram (ILR (1918) 45 Cal 94 : AIR 1917 PC 156)** it was observed that true guide for a court to exercise the discretion under Section 5 is whether the appellant acted with reasonable diligence in prosecuting the appeal. In **Shakuntala Devi Jain v. Kuntal Kumari ((1969) 1**

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<sup>3</sup> (2005) 3 Supreme Court Cases 752.

**SCR 1006 : AIR 1969 SC 575)** a Bench of three Judges had held that unless want of bona fides of such inaction or negligence as would deprive a party of the protection of Section 5 is proved, the application must not be thrown out or any delay cannot be refused to be condoned.”

Learned counsel for plaintiffs also contends that when it comes to condonation of delay, the Court has to look into the cause of delay but not the length of delay and he placed reliance on the propositions of law laid down in **Municipal Council, Ahmednagar and another v. Shah Hyder Beig and others**<sup>4</sup> and **K.Ramasamy v. R.Nallammal and Others**<sup>5</sup>.

10. A perusal of the material on record goes to show that in O.S.No.77 of 2011 on the file of the learned Senior Civil Judge, filed by the plaintiffs seeking the relief of Partition and separate possession, an *ex parte* preliminary decree was passed on 18.07.2013. Petitioner herein is shown as defendant No.3 in the suit. Even according to the averments in the plaint, petitioner/defendant No.3 is stated to have purchased item Nos.1 and 2 (major portion) of suit schedule property from one Pulapaturu Adinarayana, who is father of plaintiffs and defendant No.2, and husband of defendant No.1, under Registered Sale Deed bearing

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<sup>4</sup> (2002) 2 Supreme Court Cases 48.

<sup>5</sup> Civil Appeal No. of 2025 (@ S.L.P.(C) No.2177 of 2024) on the file of the Hon'ble Supreme Court of India, dated 03.03.2025.

Document No.642/2008, dated 21.06.2008 *i.e.* well before filing of the suit. It is the case of the petitioner/defendant No.3 that on receipt of summons in the suit, he approached the plaintiffs and defendant Nos.1 and 2, and a panchayat was held before elders, wherein the plaintiffs and defendant Nos.1 and 2 promised that they would withdraw the suit in respect of property covered by the Registered Sale Deed, dated 21.06.2008. It is his case that *in spite* of the same, a collusive preliminary decree has been obtained in the suit on 18.07.2013, to defeat his rights. It is his further case that he also filed O.S.No.198 of 2023 on the file of the Principal Junior Civil Judge, Rayachoty seeking the reliefs of declaration of title and permanent injunction in respect of the said property and the same is pending.

11. It is settled that there must be 'sufficient cause' to condone delay under Section 5 of the Act, 1963. The word 'sufficient cause' is not defined under the provisions of the said Act, 1963. However, it would mean a cause which is beyond the control of the party invoking the aid of the said provision.

12. Even according to the plaintiffs, petitioner/defendant No.3 obtained Registered Sale Deed even before filing the suit *i.e.* on 21.6.2008 from the father of plaintiffs and defendant No.2 in

respect of item Nos.1 and 2 (major portion) of the plaint schedule property. It is also his case that after purchase of said property by him, revenue authorities mutated his name in revenue records and issued Pattadar Pass Book and Title Deed in his favour and that, he also obtained crop loan from the Syndicate Bank by mortgaging the said property. Substantial property rights of the petitioner are involved in the matter. Without deciding the same, if the suit is adjudicated upon *ex parte*, irreparable hardship would be caused to the petitioner/defendant No.3. No doubt, the petitioner/defendant No.3 did not properly explain the sufficient cause for the abnormal delay of 1813 days in filing the petition to set-aside the *ex parte* decree, having full knowledge about the pendency of the suit. However, in order to advance substantial justice to the parties and to have adjudication on merits of the property rights of the petitioner, this Court is of the opinion that Section 5 of the Act, 1963 has to be construed liberally and an opportunity can be given to the petitioner/defendant No.3 to contest the suit.

13. Accordingly, the Civil Revision Petition is allowed, setting-aside the Order dated 08.07.2025 passed in I.A.No.304 of 2018 in O.S.No.77 of 2011 by the learned Senior Civil Judge, Rayachoty. Consequently, I.A.No.304 of 2018 stands allowed,

condoning the delay of 1813 days in filing the petition under Order IX Rule 13 of CPC.

There shall be no order as to costs.

As a sequel thereto, the miscellaneous applications, if any, pending in this CRP shall stand closed.

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**JUSTICE K. SREENIVASA REDDY**

24<sup>th</sup> February, 2026.

DNB/DRK