



HIGH COURT OF ANDHRA PRADESH
WEDNESDAY ,THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO
CIVIL REVISION PETITION NO: 628 OF 2021

Between:

1. Achutha Audi Narayana S/o. Koti Lingaiah, Hindu, aged about 34 years,
R/o. Yerragondapalem, Prakasam District.

...PETITIONER(S)

AND:

1. Vonukuri Venkata Subbaiah (died). Vonukuri Venkata Subbaiah (died).
2. NooneUmadevi W/o., Narasimha Reddy, Hindu, aged about 51 years,
R/o. Ganapavaram,
Tripuranthakam Mandal, Prakasam District.
3. Vonukuri Vara Lakshmma, W/o. Venkata Subbaiah, Hindu, aged about 62
years, R/o. Yerragondapalem, Prakasam District.
4. VodarevuAlivelumangamma W/o. Venkata Lakshmi Ravi Kumar, Hindu,
aged about 47 years, R/o. OK Reddy Building, Flat No.103, Saibabaroad,
Santhinagar, 2nd Lane, Guntur.
5. Vonukuri Venkata Subrahmanyam S/o. Late Venkata Subbaiah, Hindu,
aged about 43 years, R/o., Yerragondapalem, Prakasam District.
6. Velpuri Siva Kumari W/o. Venkata Narayana, Hindu, aged about 40
years, R/o. Prakash Nagar, Narasaraopet, Guntur District.
7. Chakilam Uma Maheswari W/o. Venkata Narayana, Hindu, aged about 38
years, R/o. 1st Ward, Markapur,
Prakasam District. (Respondents 3 to 7 are added as LR's of 1st
Respondent in IA.No.137/2015 in 05.22/2008 dt.12-02-2021).

...RESPONDENTS

Counsel for the Petitioner(s): SITA RAM CHAPARLA

Counsel for the Respondents: E V V S RAVI KUMAR

The Court made the following: ORDER



HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

+ CIVIL REVISION PETITION Nos.628 and 705 of 2021

CRP No.72628 of 2020

Between:

Achutha Audi Narayana, S/o. Koti Lingaiah

... Petitioner

And

- \$ 1. Vonukuri Venkata Subbaiah (died)
2. Noone Umadevi, W/o Narasimha Reddy and 5 others.

.... Respondents

JUDGMENT PRONOUNCED ON **14.06.2023**

THE HON'BLE DR.JUSTICE K. MANMADHA RAO

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? - Yes -
2. Whether the copies of judgment may be marked
to Law Reporters/Journals - Yes -
3. Whether Their Ladyship/Lordship wish to see
the fair copy of the Judgment? - Yes -
-

DR.JUSTICE K. MANMADHA RAO



*** THE HON'BLE DR.JUSTICE K. MANMADHA RAO**

+ CIVIL REVISION PETITION Nos.628 and 705 of 2021

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.... Respondents

! Counsel for the Petitioner : Sri Sitaram Chaparla

^Counsel for Respondents: Sri E.V.V.S. Ravi Kumar

<Gist :

>Head Note:

? Cases referred:

1. (2013) 14 Supreme Court Cases 81
2. AIR 1964 SC 993
3. AIR 2002 SC 1201



HON'BLE DR. JUSTICE K. MANMADHA RAO
CIVIL REVISION PETITION No.628 & 705 of 2021

COMMON ORDER :

As the issue involved in both the civil revision petitions is one and the same, they are being taken up for hearing as well as disposed of by way of this Common Order.

2. Heard Mr. Sitaram Chaparla, learned counsel appearing for the petitioner and Sri E.V.V.S. Ravi Kumar, learned counsel appearing for the respondents.

3. The petitioner herein is the plaintiff, filed suit in O.S. No.22 of 2008 for grant of specific performance of sale agreement dated 23.10.2006. The same was decreed ex parte dated 23.09.2010. The present impugned I.A.No.495 of 2012 in O.S.No.22 of 2008 and I.A.No.880 of 23012 in O.S.No.22 of 2008 were filed by the petitioner/1st defendant for setting aside the Ex pare decree passed against the petitioner/1st defendant before the III Additional District Judge (FTC), Ongole (FAC: Judge, Family Court, Ongole) (for



short “the Court below”). On considering the submissions and on considering the facts and circumstances of the case, both the applications were allowed. Aggrieved by the same, the present civil revision petition came to be filed.

4. On perusing the proceeding sheet, this Court vide order dated 08.07.2021, granted interim stay of all further proceedings in O.S No.22 of 2008 on the file of the Family Court-cum-VIII Additional District Judge, Prakasam District at Ongole. During pendency of the CRP, the petitioner has expired, and this Court, vide order dated 16.02.2023, ordered I.A.No.1 of 2022 permitting the proposed petitioners being the legal heirs of the deceased-sole petitioner to implead as petitioners No.2 to 5 in the civil revision petition.

5. Learned counsel for the petitioner submits that the orders passed by the court below are against law, improper and illegal. The Court below erred in exercising the jurisdiction without considering the subsequent events like filing of EP, depositing of money etc and contesting the E.P without getting the ex parte set aside petition numbered and brought before the Court for consideration. He further submits that the Court below failed to consider basic



grounds relevant to consider an application to set aside the ex parte decree under Order IX Rule 13 CPC. He also submits that the impugned order did not advert either the statutory requirement nor the counter filed to the subject I.A. Therefore, requests this Court to pass appropriate orders by setting aside the impugned orders.

6. Admittedly, after passing the Ex parte decree, the petitioner/1st defendant has filed petition under Order IX Rule 13 CPC to set aside the ex parte decree. During pendency of the petition, the petitioner died. Thereafter, the defendants, who are legal heirs of the deceased-1st defendant i.e., petitioner herein were brought on record.

7. On perusing the material, it is observed that the ex parte decree was passed on 23.09.2010 and the petition under Order IX Rule 13 CPC was filed by the petitioner/1st defendant on 22.10.2010 which is within limitation period and also the delay condonation petition in representing the petition filed to set aside the ex parte decree. This Court observed that, the request of the petitioner to condone the delay of 587 days in representing I.A filed under Order IX Rule 13 CPC was condoned subject to payment of costs of



Rs.500/- to the plaintiff/R1 or his counsel. The petition under Order IX Rule 13 CPC was also allowed on payment of costs of Rs.5,000/-.

8. Learned counsel for the petitioner mainly contended that court below failed to see that condonation of delay in representing the I.A. filed to set aside the ex parte decree after deposit of the amount in suit, filing of the E.P., deposit of registration charges etc., to the knowledge of the respondents, who are contesting the E.P proceedings. Without taking into consideration the relevant subsequent events, the Court below erroneously passed impugned orders and hence the same are liable to be set aside.

9. In support of his contention, learned counsel for the petitioner has relied upon a case of **Baswaraj and another Versus Special Land Acquisition Officer**¹, wherein the Hon'ble Supreme Court held that :

*In Arjun Singh v. Mohindra Kumar*², this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".

¹ (2013) 14 Supreme Court Cases 81

² AIR 1964 SC 993



11. The expression “sufficient cause” should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide: [Madanlal v. Shyamlal](#), AIR 2002 SC 100; and [Ram Nath Sao @ Ram Nath Sahu & Ors. v. Gobardhan Sao & Ors.](#),³.)

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim “dura lex sed lex” which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.

10. From a reading of the above judgment filed by the learned counsel for the petitioner is not at all applicable to the present set of facts of the case.

11. On perusing the entire material available on record and on considering the submissions made by both the counsels, while condoning the delay, this Court observed that when there are certain questions which require a debate in the main suit, it is not necessary that these matters are rejected at the stage without inviting

³ AIR 2002 SC 1201



decisions on merits. If the delay is condoned though enormous what happens at best is to give opportunity to the parties to canvas their respective cases since question of being procedure attempt of Court should be encourage a healthy discussion on merits than rejecting at threshold. Further it is observed that, if the delay is condoned no prejudice will be caused to the other party as the suit would be heard on merits. Further, it is also observed that there is no willful negligence on the part of the respondents herein nor it suffers from want of due diligence.

12. In view of the foregoing discussion, whatever the reasons mentioned by the Court below in allowing the applications are correct and further only the delay is caused in filing the petition under Order IX Rule 13 CPC but original delay is not caused in filing petition under Order IX Rule 13 CPC. Hence this Court found no illegality or perversity in the orders passed by the Court below. Finding no merit in the instant revision petitions and devoid of merits, the same are liable to be dismissed.

13. Accordingly, both the Civil Revision Petitions are dismissed. Further, since the suit pertains to the year



2008, the Court below is directed to dispose of the same, as expeditiously, as possible, preferably, within three (03) months from the date of receipt of a copy of this order. There shall be no order as to costs.

14. It is made clear that the interim order passed by this Court is hereby vacated.

As a sequel, all the pending miscellaneous applications shall stand closed.

DR. K. MANMADHA RAO, J.

Date : -06-2023

Note: L R Copy to be marked.

(b/o)Gvl



HON'BLE DR. JUSTICE K. MANMADHA RAO

CIVIL REVISION PETITION Nos.628 and 705 of 2021

Date : .06.2023



Gvl