



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: 721 OF 2020

Between:

1. Patnam Ramanaiah (died)
2. Patnam Kumar S/o Ramanaiah, Hindu,
aged about 39 years R/o Hospital Street,
Vidavaluru, SPSR Nellore District

...PETITIONER(S)

AND:

1. Patnam Subba Rao, S/o Subba Rao (not correct) P.Ramanalah . Hindu,
aged about 64years, R/o. Aiyala Reddy Apartment, D.No.27-2-130, Near
Tyaga Raja Kalyanamandapam, Balaji Nagar, Nellore, SPSR Nellore
District.
3. Patnam Venkaiah, S/o Ramanaiah, Hindu, aged about 66 years,
C/o Annapurna Apartment,
Flat No. 304, 2nd Floor, D.R.K. Classic Apartments,
Putta Veedhi, Balaji Nagar, Nellore,
SPSR Nellore District.
4. Badathala Venkateswarlu, (died)
5. Badathala Srinivasulu, S/o late Venkateswariu, aged about 48 years, R/o
Konetimitta, Opp Anjaneya Swamy Temple, Gudur Town, SPSR Nellore
District.
6. Kanchi Neeraja, W/o Balaji, Hindu, aged about 41 years,
R/o Konetimitta, Opp Anjaneya Swamy Temple, Gudur Town, SPSR
Nellore District.
7. Paturu Sailaja, W/o Babu, Hindu, aged about 40 years, House wife
R/o Gangamitta, Pathuru (old), 91 Ward, Ulavapadu Village,
Prakasam District.
8. Patnam Sarath, S/o Venkaiah, Hindu, aged about 21 years,
Opp Anjaneya Swamy Temple,
Gudur Town, SPSR Nellore District.
9. Patnam Swetha, @ Kalpana, D/o Venkaiah, Hindu, aged about 22 years,
Opp Anjaneya Swamy Temple,
Gudur Town, SPSR Nellore District.
10. Badathala Kusuma (died) (Respondents 3 and 9 died and therefore they
are not necessary parties in this Petition)

...RESPONDENTS

Counsel for the Petitioner(s): M RAVINDRA

Counsel for the Respondents: V ROOPESH KUMAR REDDY

The Court made the following: ORDER



HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

+ CIVIL REVISION PETITION Nos.721 and 729 of 2020

CRP No.721 of 2020

Between:

- # 1. Patnam Ramanaiah (died_)
2. Patnam Kumar, S/o Ramanaiah

... Petitioner s

And

\$ Patnam Subba Rao and 8 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**

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! Counsel for the Petitioner : Sri T.C. Krishnan

^Counsel for Respondents: Sri V. Roopesh Kumar Reddy

<Gist :

>Head Note:

? Cases referred:

1. MANU/SC/0932/2013
2. MANU/AP/0069/1999



HON'BLE DR. JUSTICE K. MANMADHA RAO

CIVIL REVISION PETITION Nos.721 and 729 of 2020

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. T.C. Krishnan, learned counsel appearing for the petitioners and Mr. V. Roopesh Kumar Reddy, learned counsel appearing for the respondents.

3. The brief facts of the case are that the petitioner brought up the respondent and 2nd defendant and got them educated and employed in Government service. But the respondent filed the suit in O.S.No.115 of 2005 for partition with false allegations. The 4th defendant is his second wife. Himself and 2nd defendant and 4th defendant engaged an advocate and got filed vakalat. The petitioner sustained fracture in the year 2005 and getting treatment by that time. His wife who is the 4th defendant in the suit was also



attacked with heart ailment and brain hemorrhage and getting treatment. Since the respondent and 2nd defendant including the daughters of the petitioner did not choose to look after them or get any treatment for them, the 2nd petitioner is attending to serve them during treatment. The wife of the petitioner died and he came to know that preliminary decree was passed against them. Due to his old age and ill-health and also due to death of his wife, he could not file written statement in time. Hence the delay occurred and therefore he preferred I.A.No.485 of 2007 before the Senior Civil Judge, Kovvur (for short “the trial Court”) under Section 5 of Limitation Act to condone the delay of 193 days enabling the petitioners/D1 and D3 to proceed with the trial. Consequently, he also filed I.A No.517 of 2007 under Order 8 Rule 1 and Section 151 of CPC to receive the written statement enabling the petitioners/Defendants No.1 and 3 to proceed with the trial. On considering the submissions of both sides and after careful examination of evidence and the submissions, the trial Court has dismissed both the I.As. Aggrieved by the same, the present civil revision petitions came to be filed.



4. On hearing, learned counsel for the petitioners submits that the order of the trial Court is contrary to law, vitiated by material irregularities and jurisdictional errors. He further submits that the trial Court erred in holding that necessary parties are not added and therefore the petition is not maintainable. To support his contentions, learned counsel has relied upon a decision of Hon'ble Supreme Court reported in **Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy and others**¹, wherein it was held that *the principles for dealing with application for condonation of delay are that (i) there should be a liberal, pragmatic, justice-oriented, non-pedantic approach; (ii) that the terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact situation; and (iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.*

¹ MANU/SC/0932/2013



5. He also relied upon a decision of this Court reported in **Movva Anjamma and others vs. Abhineni Anasuya and others**², wherein it was held that “*the primary function of a Court is to adjudicate the dispute between the parties and to advance substantial justice.*”

6. Per contra, learned counsel appearing for the respondents submits that the petitioners have failed to explain the day today delay to invoke the benefit under Section 5 of Limitation Act. When the 1st defendant able to come down to Kovvur on 1.8.2007, 10.8.2007 and 14.8.2007 to register settlement deeds he could approach his advocate and got prepare the written statement even those days. He further submits that the judgment passed by the trial Court is deemed to be on merits as the defendants failed to file written statement within 90 days. He also submits that the “sufficient cause” means some cause beyond the control of the petitioners. But the petitioners/D1 and D3 resorted to dilatory tactics but not sought their remedy promptly. Hence, prayed to dismiss the petitions.

² MANU/AP/0069/1999



7. On perusing the material available on record, this Court observed that, the suit was filed for partition of the plaint schedule property. Since the petitioners/D1 and D3 did not choose to file written statement, they were made set ex parte and subsequently remaining defendants were also set ex parte and an ex parte decree was passed on 22.3.2007. The only contention of the petitioners is that since his wife died and he also got operated, he could not approach before the Court.

8. Having regard to the facts and circumstances of the case and on considering the submissions of both the counsels, it is observed that, the trial Court erred in holding that no reasons have been been assigned satisfactorily by the petitioners to condone the delay of 193 days in filing petition to set aside the ex parte decree dated 29.3.2011 without considering the evidence of PW.1. It is further observed that the petitioner was restrained from filing written statement for the reasons that the wife of the 1st petitioner died and he got operated and therefore he could not approach the advocate, whom he engaged for the



purpose of drafting the written statement and filing the same.

9. Therefore, in view of the foregoing discussion, this Court feels that if the delay is not condoned, the petitioners/D1 and D3 would be out of court once for all. If the delay is condoned the plaintiffs suit will not be dismissed automatically, still it is a case where a suit has to be disposed of by the Court after hearing either side. Therefore, condonation of delay will not cause any irreparable loss to the other side. Therefore, this Court is inclined to give one more opportunity to contest the matter.

10. Accordingly, both the Civil Revision Petitions are allowed. The impugned orders in both the revision petitions are hereby set aside and remand back the matters to the trial Court. Basing on the above observations, the trial Court is directed to dispose of the I.As afresh, within a period of three (03) months from the date of receipt of a copy of this order. Further, since the suit in both the revision petitions are pertain to the year 2005, the trial Court is directed to dispose of the above suit as expeditiously, as



possible, preferably, within six (06) months from the date of receipt of a copy of this order.

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

DR. K. MANMADHA RAO, J.

Date : 14 -06-2023

Note : L. R Copy to be marked.

(b/o)Gvl



HON'BLE DR. JUSTICE K. MANMADHA RAO

CIVIL REVISION PETITION Nos.721 and 729 of 2020

Date : 14 .06.2023

Gvl