APHC010161932026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3327]**
(Special Original Jurisdiction)

THURSDAY, THE 15th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE K SREENIVASA REDDY

CIVIL REVISION PETITION NOs: 978/2026 & 1064/2026

CRP No.978/2026:

Between:

1. YELISETTI VENKATA LAKSHMI, W/O. SRINIVAS, HINDU, AGED 38 YEARS, HOUSE WIFE, RESIDENT OF D. NO. 37-11-84, P.R. GARDENS, INDUSTRIAL ESTATE, MURALINAGAR, VISAKHAPATNAM.

...PETITIONER

A N D

1. POTTELU GOWRI, W/O. RAMA KRISHNA, HINDU, AGED ABOUT 40 YEARS, HOUSEHOLD DUTIES, RESIDING AT D. NO. 5-3-18, LAXMIDEVIPETA, ANAKAPALLE, VISAKHAPATNAM

...RESPONDENT

Petition under Article 227 of the Constitution of India/Section 115 of CPC, praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to the above-named petitioner begs to present this Memorandum of Civil Revision Petition against the Decretal Order, dated 05.08.2025, passed in I.A. No. 916 of 2022 in RCC No.1/2017, on the file of the Principal Civil Judge (Junior Division), Anakapalle and for the following among other

IA NO: 1 OF 2026

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 stay all further proceedings in R.C.C. No.1 of 2017, on the file the Principal Civil Judge (Junior Division), Anakapalle, pending disposal of the present CRP and to pass

Counsel for the Petitioner:

1. ARRABOLU SAI NAVEEN

Counsel for the Respondent:

1. P RAJASEKHAR

CRP No.1064/2026

Between:

1. YELISETTI VENKATA LAKSHMI, W/O. SRINIVAS, HINDU, AGED 38 YEARS. HOUSE WIFE, RESIDENT OF D. NO. 37-11-84, P.R. GARDENS, INDUSTRIAL ESTATE, MURALINAGAR, VISAKHAPATNAM.

...PETITIONER

A N D

1. POTTELU GOWRI, W/O. RAMA KRISHNA, HINDU, AGED ABOUT 40 YEARS. HOUSEHOLD DUTIES. RESIDING AT D. NO. 5-3-18, LAXMIDEVIPETA, ANAKAPALLE, VISAKHAPATNAM

...RESPONDENT

Petition under Article 227 of the Constitution of India/Section 115 of CPC, praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to the above-named petitioner begs to present this Memorandum of Civil Revision Petition against the Decretal Order AND Order, dated 05.08.2025, passed in I.A. No. 917 of 2022 in RCC No. 1/2017, on the file the Principal Civil Judge (Junior Division), Anakapalle and for the following among other

IA NO: 1 OF 2026

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 stay all further proceedings in R.C.C. No.1 of 2017, on the file the Principal Civil Judge (Junior Division), Anakapalle, pending disposal of the present CRP and to pass

Counsel for the Petitioner:

1. ARRABOLU SAI NAVEEN

Counsel for the Respondent:

1. P RAJASEKHAR

The Court made the following:

C O M M O N O R D E R

Since the parties, the contentions and the rival contentions are one and the same, and further, the point involved in these Civil Revision Petitions is also one and the same, at request of both the counsel, they are disposed of, by this Common Order.

2. Civil Revision Petition No.978 of 2026 came to be filed by the petitioner herein, challenging the Order dated 05.08.2025 passed in I.A.No.916 of 2022 in RCC No.1 of 2017 by the learned Principal Civil Judge (Junior Division), Anakapalle (for brevity 'the learned trial Court'), whereunder and whereby, application filed by the respondent herein, under Section 5 of the Limitation Act, 1963 (for brevity 'the Act, 1963') was allowed, condoning the delay of 1,400 days in filing the petition to set-aside the *ex parte* decree dated 13.11.2018, subject to payment of costs of Rs.2,500/-.

3. Whereas, Civil Revision Petition No.1064 of 2026 came to be filed, challenging the Order dated 05.08.2025 passed in I.A.No.917 of 2022 in RCC No.1 of 2017 by the trial Court, whereunder and whereby, the application was allowed, setting-aside the *ex parte* decree dated 13.11.2018, subject to payment of costs of Rs.2,500/-.

4. Petitioner herein is the petitioner, and respondent herein is the respondent, in R.C.C.No.1 of 2017 on the file of the trial Court. Parties hereinafter are referred to, as they were arrayed in the RCC proceedings pending before the trial Court.

5. Petitioner filed R.C.C.No.1 of 2017 against the respondent under Section 10 (2) (i) of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 seeking eviction of the respondent from the schedule premises on the ground of willful default in payment of rent; that the schedule property is an old terraced roof house and thatched hut; that originally, the schedule property belonged to the respondent, and she executed GPA dated 10.07.2014 and handed over possession of schedule property to one Yelisetti Satyanarayana, and subsequently, on the same day, the respondent took the schedule property on lease for a period of one year commencing from 10.07.2014 to 09.07.2015; that even after expiry of lease period, the respondent continued as a monthly tenant to Yelisetti Satyanarayana; that subsequently the petitioner purchased the schedule property under a Registered Sale Deed dated 22.04.2017 from one Yelisetti Satyanarayana, who is the General Power of Attorney holder to the respondent for valuable consideration; that at

the time of purchase, Yelisetti Satyanarayana introduced the petitioner to the respondent, and informed the respondent about the sale of schedule property, for which, the respondent also agreed and promised to pay the rent to the petitioner; that the respondent had committed willful default in payment of rent and failed to vacate the premises despite issuance of legal notices. Hence, the petitioner was constrained to file the present RCC against the defendant seeking her eviction from the schedule property.

6. The respondent made her appearance through her counsel, by filing vakalat on 27.11.2017, and thereafter, several opportunities were granted to the respondent to file counter, however, the counter was not filed. On 26.07.2018, the respondent was set *ex parte* and the matter was posted for hearing. The trial Court, upon considering the evidence adduced by the petitioner and the material available on record, *vide* Order dated 13.11.2018, allowed the R.C.C.No.1 of 2017, directing the respondent to vacate the schedule property premises within a period of one month. Subsequently, the petitioner initiated Execution Petition proceedings *vide* E.P.No.31 of 2019 for delivery of possession of the schedule property.

7. At that stage, the respondent herein filed I.A.No.916 of 2022 under Section 5 of the Limitation Act, 1963 seeking to condone the delay of 1,400 days in filing the application *vide* I.A.No.917 of 2022 to set aside the *ex parte* decree dated 13.11.2018, contending that she had no proper contact with her counsel; that she had no assistance in her family to attend the case proceedings; that when the Court Amin came to deliver possession of the schedule property on 01.04.2021, she came to know about the Execution Petition proceedings, and that she was stated to have filed similar applications on 12.04.2021 under G.R.Nos.1785 of 2021 and 1786 of 2021 in the office, and the same could not be found within the time, and taking advantage of the same, the petitioner was pressurizing for execution of *ex parte* decree.

8. The petitioner herein filed counter contending that the respondent having knowledge of the proceedings, had engaged an Advocate and she was afforded sufficient opportunities to contest the RCC proceedings, but the respondent deliberately neglected to proceed with the proceedings and approached the Court only when execution of eviction order was sought to be effected.

9. The trial Court *vide* Order dated 05.08.2025, allowed the applications in I.A.No.916 of 2022 and I.A.No.917 of 2022,

taking into consideration the respondent's assertion regarding the alleged filing of earlier applications, Covid-19 Pandemic effect, pendency of Partition suit filed by her children, and the absence of male assistance in her family. Aggrieved of the *impugned* Orders, the petitioner herein filed the present Civil Revision Petitions.

10. Now the point that arises for consideration in these Civil Revision Petitions is whether the Order of the trial Court was justified in condoning the delay of 1,400 days in filing the petition to set aside the *ex parte* Order dated 13.11.2018, in the absence of a satisfactory and convincing explanation for the delay, and whether the *impugned* orders warrant interference of this Court under Article 227 of the Constitution of India?

11. Before making thoughtful consideration of the case facts, it is apposite to refer to Section 5 of the Limitation Act, 1963. It is well settled that the expression ‘sufficient cause’ occurring in Section 5 of the Act, 1963 should receive a liberal construction so as to advance substantial justice, provided the party seeking to condone delay establishes *bona fides* and establishes that the delay was occasioned by circumstances which reasonably prevented them from approaching the Court within the prescribed period. At the same time, liberal approach/construction of the

expression ‘sufficient cause’ does not confer an unrestricted discretion upon the Court to condone every delay irrespective of the explanation offered. The length of delay is not, by itself, decisive; however, the conduct of the party, the nature of explanation, the diligence exercised and the *bona fides* of the party are relevant considerations. In this regard, the proposition of law laid down by the Hon'ble Supreme Court in **Basawaraj and another v. Special Land Acquisition Officer**[1] reiterates that the party seeking condonation of delay must establish sufficient cause and that the Court cannot condone delay merely on equitable considerations in the absence of such cause. Keeping the above principles in view, this Court proceeds to examine the facts of the case on hand.

12. Learned counsel for the petitioner would contend that no doubt Court below has discretion condone delay, if sufficient cause is established, but regard has to be given to the lack of *bona fides* or lack of due diligence while exercising said discretion. He placed strong reliance on the proposition of law laid down in **Esha Bhattacharjee v. Managing Committee of Raghunathpur**

[1] (2013) 14 SCC 81.

Nafar Academy and Others[2], wherein, the Hon'ble Apex Court held as under: (paragraph No.15)

> 15. From the aforesaid authorities the principles that can broadly be culled out are:
>
> i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.
>
> ii) 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.
>
> iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.
>
> iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.
>
> v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.
>
> vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant

[2] 2013 Supreme (SC) 868.

so that in the ultimate eventuate there is no real failure of justice.

vii) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.

viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

xii) The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

> xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.

A plain reading of the aforesaid decision goes to show that the Hon'ble Supreme Court vividly discussed the principles governing condonation of delay and emphasized that while a liberal approach may be adopted in appropriate cases, negligence, want of *bona fides* and lack of due diligence cannot be ignored.

13. A perusal of the material on record goes to show that the petitioner herein filed RCC No.1 of 2017 before the trial Court against the respondent seeking eviction from the schedule property on the ground of willful default in payment of rent. The record also goes to show that the respondent was said to have taken the schedule property on lease from one Yelisetti Satyanarayana for a period of one year commencing from 10.07.2014 to 09.07.2015, and by virtue of Registered Sale Deed dated 22.04.2017, the petitioner purchased the schedule property from the said Yelisetti Satyanarayana, and lease period of respondent was said to have continued subsequent to purchase of petitioner.

14. A perusal of the material on record goes to show that the respondent had engaged an Advocate, who filed vakalat on

27.11.2017, and it can be presumed that she had knowledge of eviction proceedings from its inception. Further, the e-Courts proceedings disclose that the matter was adjourned from time to time for filing of counter, and even the respondent was provided ample opportunities on 22.02.2018, 06.03.2018, 14.03.2018, 12.04.2018, 08.05.2018 and 27.06.2018, and despite the same, the respondent failed to file her counter, resulting in setting her *ex parte* on 26.07.2018. Thus, basing on the material available on record it cannot be said that the respondent was not aware of the proceedings. On the contrary, she had entered appearance through counsel and was afforded repeated opportunities to contest the RCC, and her failure to avail those opportunities cannot be brushed aside.

15. Learned counsel for the respondent herein would contend that the delay occurred as she had no proper contact with her counsel and that, she had no male assistance in her family to proceed with the case proceedings. However, these assertions, in the absence of any substantial proof explaining the circumstances which prevented her from pursuing the case proceedings for such a prolonged period, cannot, by themselves constitute sufficient cause. Indisputably, the respondent pleaded that a Court Amin

visited the schedule property on 01.04.2021 for execution of delivery warrant and that, then only she came to know about the case proceedings. However, this assertion has to be considered in the light of the fact that the respondent had already entered appearance in R.C.C.No.1 of 2017 through her counsel and had participated in the case proceedings before she was made *ex parte*.

16. It is the another contention of learned counsel for the respondent that the respondent filed similar applications on 12.04.2021 under G.R.Nos.1785 of 2021 and 1786 of 2021, but it is due to misplacement of those applications, the delay occurred. Considerably, no acknowledgment, filing receipt or other contemporaneous documentary material was produced to substantiate the filing of aforesaid applications. A perusal of the *impugned* Orders goes to show that the trial Court appears to have accepted the said assertion without examining as to whether the respondent had discharged the burden of establishing the same. Mere assertion that certain applications had been filed earlier, without any supporting material, cannot constitute a satisfactory explanation for the substantial delay in approaching the Court. Even assuming for a moment that such applications were

presented, the respondent is supposed to explain the delay in regard to subsequent period of inaction and establish the steps that was taken by her to pursue the relief sought.

17. A perusal of the *impugned* Order goes to show that the trial Court placed reliance on the Covid-19 Pandemic and the alleged online filing of the earlier applications. Though the extraordinary circumstances prevailing during the pandemic are relevant considerations, the same cannot automatically explain the entire period of delay in every case. The respondent has to establish the manner in which those circumstances prevented her from taking appropriate steps in the case proceedings. Further, the respondent's plea regarding the absence of male assistance in her family, without any further particulars demonstrating how the same prevented her from approaching the Court, cannot constitute sufficient cause to condone such a substantial delay.

18. The *impugned* Order further goes to show that O.S. No.44 of 2022 was stated to have been filed by the children of respondent in respect of the schedule property, and in that regard, the trial Court observed that an opportunity should be given to the respondent to decide the eviction proceedings on merits. But, this Court is of the opinion that mere pendency of separate Partition

suit, by itself, cannot furnish sufficient cause to condone the delay in filing an application to set-aside the *ex parte* Order, as the issue is with regard to title and right claimed by the respondent's children in the Partition suit, and they are distinct from the question as to whether the respondent had sufficient cause for not contesting the eviction proceedings within the prescribed period.

19. The trial Court ought to have independently examined the explanation offered by the respondent with reference to relevant period of limitation, but it appears that the trial Court, being influenced mainly in order to provide an opportunity to contest the eviction proceedings on merits, condoned the delay. It is relevant to remind that earlier, the respondent had made her appearance in the Execution Petition proceedings and, according to the counter filed by the petitioner, had sought relief against an *ex parte* Order therein.

20. The reasons recorded by the trial Court are general in nature and do not establish as to how the explanation offered by the respondent constitute sufficient cause to condone abnormal and unexplained delay of 1,400 days. This Court is conscious of the fact that jurisdiction under Article 227 of the Constitution of India is supervisory in nature and is not intended to be exercised as

an Appellate Jurisdiction in every interlocutory order passed by a subordinate Court in exercise of its discretionary power. However, in the present case, failure of the respondent to prosecute the eviction proceedings despite entering appearance, providing repeated opportunities to her, absence of satisfactory material substantiating the alleged earlier applications and failure to explain subsequent period of inaction, are material circumstances which have not been properly considered by the trial Court. It is settled that the discretion vested with the Court has to be established keeping *in* mind the *sound judicial* principles. This Court is, therefore, of the considered view that the respondent failed to establish either sufficient cause or due diligence in condoning the delay of 1,400 days by producing satisfactory material on record as per the settled principles governing Section 5 of the Limitation Act, 1963. Consequently, the *impugned* Orders dated 05.08.2025 passed in I.A.No.916 of 2022 and I.A.No.917 of 2022 warrant interference in exercise of the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

21. Accordingly, the Civil Revision Petition Nos.978 of 2026 and 1064 of 2026 are allowed, setting-aside the Orders dated 05.08.2025 passed in I.A.Nos.916 of 2022 and I.A.No.917 of 2022

in R.C.C. No.1 of 2017 by the learned Principal Civil Judge (Junior Division), Anakapalle. Consequently, I.A.No.916 of 2022 filed by the respondent herein under Section 5 of the Limitation Act, 1963 stands dismissed. In view of dismissal of the aforesaid application for condonation of delay, the accompanying application *vide* I.A.No.917 of 2022 filed by the respondent herein seeking to set aside the *ex parte* eviction Order dated 13.11.2018 shall stand rejected as barred by limitation. The petitioner herein is at liberty to proceed with the Execution Petition proceedings in accordance with law.

There shall be no order as to costs of the CRP.

Consequently, miscellaneous applications pending if any, shall also stand closed.

JUSTICE K. SREENIVASA REDDY

15th October, 2026.

DNB