

HIGH COURT OF ANDHRA PRADESH

CIVIL REVISION PETITION No.2230 of 2024

#1. N.Anjinaiah @ Sakkara
Anjineyulu died by L.Rs

2. N.Palthuramma w/o Late
N.Anjinaiah @ Sakkara Anjineyulu
aged 74 years and 5 others

.....Petitioner

And:

\$1. N.Anumanna s/o Late
N.Rangappa, aged 45 years,
Hindu, V.Kothakota Village,
Vidapanakal Mandal,
Ananthapuarmu District.

....Respondent

DATE OF JUDGMENT PRONOUNCED: 13.03.2026.

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

- | | |
|--|--------|
| 1. Whether Reporters of Local newspapers may
be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked
to Law Reporters/Journals? | Yes/No |
| 3. Whether Your Lordships wish to see the fair
Copy of the Judgment? | Yes/No |

RAVI CHEEMALAPATI, J

***HON'BLE SRI JUSTICE RAVI CHEEMALAPATI**

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<Gist:

>Head Note:

? Cases referred:

1. 2008 AIR SCW 6025
2. 2025 SCC Online SC 291



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

[3332]

**FRIDAY, THE THIRTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

CIVIL REVISION PETITION NO: 2230/2024

Between:

- 1.N. ANJINIAIAH @ SAKKARA ANJINEYULU DIED BY L.R.S, A
- 2.N. PALTHURAMMA, W/O LATE N. ANJINIAIAH @ SAKKARA ANJINEYULU, AGED 74 YEARS
- 3.N. HANUMANNA, S/O LATE N. ANJINIAIAH @ SAKKARA ANJINEYULU, AGED 49 YEARS
- 4.N. VENKATESULU, S/O LATE N. ANJINIAIAH @ SAKKARA ANJINEYULU, AGED 47 YEARS
- 5.N. BABU, S/O LATE N. ANJINIAIAH @ SAKKARA ANJINEYULU, AGED 39 YEARS
- 6.N. VEERNJANEYULU, S/O LATE N. ANJINIAIAH @ SAKKARA ANJINEYULU, AGED 35 YEARS
- 7.N. SARASWATHI @ N. LAKSHMI, D/O LATE N. ANJINIAIAH @ SAKKARA ANJINEYULU, AGED 31 YEARS ALL ARE R/O V. KOTHAKOTA VILLAGE, VIDAPANAKAL MANDAL, ANANTHAPURAMU DISTRICT.

...PETITIONER(S)

AND

- 1.N ANUMANNA, S/o Late N. Rangappa, Aged 45 years, Hindu, V. Kothakota Village, Vidapanakal Mandal, Ananthapuramu District.

...RESPONDENT

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 set aside the order passed in I.A. No. 477 of 2024 in A.S. No. 08 of 2019 dated 12-08-2024 on the file of Principal District Judge, Ananthapuramu

IA NO: 1 OF 2024

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 E.P. No. 13 of 2023 in O.S. No. 10 of 2023 on the file of Principal District Judge, Ananthapuramu, pending disposal of the Civil Revision Petition

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 receive the additional material paper in the CRP No 2230 of 2024 pending disposal of the Civil Revision Petition and pass pleased to receive the additional material paper in the CRP No 2230 of 2024 pending disposal of the Civil Revision Petition and pass

Counsel for the Petitioner(S):

1.K V RAGHU VEER

Counsel for the Respondent:

1.N CHANDRA SEKHAR REDDY

The Court made the following:

ORDER:

Assailing the correctness and legality of the order passed by the Principal District Judge, Anantapuramu, in I.A.No.477 of 2024 in A.S.No.8 of 2019 dated 12.08.2024, the present Civil Revision Petition is filed.

2. The petitioners are the proposed appellants in A.S.No.8 of 2019, respondent herein is the respondent in the appeal and the plaintiff in the suit.

3. The respondent got filed a suit in O.S.No.10 of 2013 on the file of the Junior Civil Judge, Uravakonda, for declaration of title and recovery of possession. The said suit was decreed on 29.11.2018. Questioning the said decree and judgment passed by the trial Court, the father of the revision petitioners' who was a party defendant in the said suit filed an appeal *vide* A.S.No.8 of 2019. Pending appeal, the sole appellant died on 09.06.2020 leaving behind the revision petitioner (his wife, sons and daughter). After, knowing that the appeal has been dismissed as abated, the revision petitioners filed I.A.No.477 of 2024 with delay of 1024 days under Section 5 of Limitation Act, to condone the said delay for adding legal heirs of the appellant under Order XXII Rule 3 of Civil Procedure Code. The said application has been opposed by the respondents herein/plaintiff denying the allegations that E.P. was already disposed of on 17.05.2024 directing the judgment debtor to deliver the property. After

hearing the parties by taking into consideration the material available on record, the Court below dismissed the said application. Assailing the same, the present Civil Revision Petition is filed.

4. Heard Sri K.V.Raghuveer, learned counsel for the petitioner and Sri Y.Subba Rao, learned counsel representing Sri N.ChandraSekhar Reddy, learned counsel for the respondents.

5. Learned counsel for the petitioner while reiterating the contents of the affidavit filed in support of the interlocutory application and the grounds of revision submitted that the fact of filing of appeal came to the knowledge of the revision petitioners only after receiving the summons in the execution petition 13 of 2023 in O.S.No.10 of 2013. The Appellate Court dismissed the appeal on the ground that the appellant died and appeal has been abated on 07.03.2022. As the revision petitioners have no knowledge about the pendency of the appeal they did not file any application to come on record as the legal heirs of the appellant. After they came to know, they filed an application, meantime, a delay of 1024 days occurred for filing application to come on record as legal heirs of the appellant. In the said circumstances, an application under Section 5 of the limitation Act, 1963, has been filed to condone the delay of 1024 days in filing the petition for adding as legal heirs of appellant.

He further submitted that the Hon'ble Apex Court in catena of decisions have categorically observed that once an appeal is pending in

the High Court the heirs are not expected to keep a constant watch on the continued existence of the parties to the appeal before the High Court which as is seen far away from where parties in rural areas may be residing inasmuch as in a traditional rural family. It is a well settled principle of law that the legal heirs are not expected to keep a constant watch and the father may not have informed his son about the litigation in which he was involved and was a party. Further, the Rules of procedure are designed to advance justice and should be so interpreted as not to make penal statutes of punishing erring parties. In the said circumstances, the order impugned is liable to be set aside. He further submitted that the petitioners are having a good case in the appeal and if the abatement is not set aside by condoning the delay, their valuable rights would be affected, as such, prayed to pass appropriate orders.

6. On the other hand, learned counsel for the respondents in elaboration to what has been stated in the counter filed before the Court below submitted that the petitioners have not properly explained the delay. In the said circumstances, they cannot find fault with the impugned order. He further submitted that the E.P. filed by the respondents has been disposed of and it is coming for delivery of property. No valid legal grounds raised warranting interference of this Court and the revision is liable to be dismissed, accordingly, prayed to dismiss the Revision.

7. Perused the record and considered the submissions made by the learned counsel for the parties.

8. The petitioners are the legal heirs of the deceased appellant in A.S.No.8 of 2019. Aggrieved by the decree and judgment passed by the Court below in O.S.No.10 of 2013 which is declaratory suit and for recovery of possession, the said appeal came to be filed. Pending appeal, the sole appellant died. The contention of the petitioners herein (Legal representatives of the deceased appellant) is that they came to know about the pendency of the appeal after they received summons in the execution proceedings and accordingly, they filed I.A.No.477 of 2024 under Section 5 of Limitation Act, 1963, to condone the delay of 1024 days in filing the petition for adding of legal heirs of the appellant as the appeal filed by the deceased appellant has been abated on the ground of death of the sole appellant.

9. The contention advanced before the Court below in the said Interlocutory application is that the petitioners' father died on 09.06.2020 and they came to know about the pendency of the appeal when they received summons in E.P.No.13 of 2023 in O.S.No.10 of 2013 from the Court of the Junior Civil Judge, Uravakonda, and upon noticing the same, they came to know that the Court passed abatement order on 07.03.2022. As the petitioners are not aware of the pendency of the appeal, they could not file an application to come on record as legal heirs

of the deceased appellant under Order XXII Rule 3 of CPC in time and by the time they came to know, it occurred a delay of 1024 days.

10. As stated *supra*, the said application has been opposed by the plaintiff/respondents in the appeal (respondents herein) denying the allegations *inter alia* contending that the E.P. filed by them was already closed and it is coming for delivery of possession.

11. The Court below on mulling of entire facts and circumstances of the case held that the delay is abnormal delay which is not properly explained, and to evade from legal liability i.e., to deliver the plaint schedule property, such pleading is false and frivolous and accordingly dismissed.

12. The expression (sufficient cause) within the meaning of Section 5 of the Limitation Act, 1963 falls for consideration before the Hon'ble Apex Court on numerous occasions. While considering the scope of expression (sufficient cause), within the meaning of Section 5 of the Act, 1963, the Hon'ble Apex Court laid down that the said expression should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bonafides is imputable to a party. It is also well settled that rules of procedure are designed to advance justice and should be interpreted as not to make them penal statutes for punishing erring parties. It is appropriate to state here that in ***Perumanan***

Bagavathi Devasom v. Bhargavi Amma (dead) & Ors¹, the Apex Court while dealing with the issue of condonation of the delay in respect of matters pending at the appellate stage, has clearly observed that advocates usually inform the litigants who are to be in contact. Sometimes, they assure their clients that they will give information to them as and when the matter would be right for hearing. Considering the aforesaid aspect and taking a lenient view, the Apex Court is of the considered opinion that the High Court erred in dismissing the Second Appeal solely on the ground of limitation and accordingly the same was set aside.

13. The said principle when compared with the facts and circumstances of the case on hand, there are several possibilities of not knowing about the pendency of the case to the legal heirs of the deceased. There would be occasions where father would not inform his children about any litigation pending before the competent Court.

14. Now while coming to the application for setting aside abatement, the learned counsel for the petitioner relied on para 9 of the judgement in ***Om Prakash Gupta alias Lalloowa (now deceased) & Ors., v. Satish Chandra***², which is extracted hereunder for quick reference:

9. The principles to guide courts while considering applications for setting aside abatement and application for condonation of delay in filing the former application are laid down by this Court in Perumon Bhagvathy

¹ 2008 AIR SCW 6025

² 2025 SCC Online SC 291

*Devaswom v. Bhargavi Amma*³⁰. An instructive passage from such decision reads as follows:

“13. The principles applicable in considering applications for setting aside abatement may thus be summarised as follows:

(i) The words ‘sufficient cause for not making the application within the period of limitation’ should be understood and applied in a reasonable, pragmatic, practical and liberal manner, depending upon the facts and circumstances of the case, and the type of case. The words ‘sufficient cause’ in Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice, when the delay is not on account of any dilatory tactics, want of bona fides, deliberate inaction or negligence on the part of the appellant.

(ii) In considering the reasons for condonation of delay, the courts are more liberal with reference to applications for setting aside abatement, than other cases. While the court will have to keep in view that a valuable right accrues to the legal representatives of the deceased respondent when the appeal abates, it will not punish an appellant with foreclosure of the appeal, for unintended lapses. The courts tend to set aside abatement and decide the matter on merits, rather than terminate the appeal on the ground of abatement.

(iii) The decisive factor in condonation of delay, is not the length of delay, but sufficiency of a satisfactory explanation.

(iv) The extent or degree of leniency to be shown by a court depends on the nature of application and facts and circumstances of the case. For example, courts view delays in making applications in a pending appeal more leniently than delays in the institution of an appeal. The courts view applications relating to lawyer’s lapses more leniently than applications relating to litigant’s lapses. The classic example is the difference in approach of courts to applications for condonation of delay in filing an appeal and applications for condonation of delay in refiling the appeal after rectification of defects.

(v) Want of ‘diligence’ or ‘inaction’ can be attributed to an appellant only when something required to be done by him, is not done. When nothing is required to be done, courts do not expect the appellant to be diligent. Where an appeal is admitted by the High Court and is not expected to be listed for final hearing for a few years, an appellant is not expected to visit the court or his lawyer every few weeks to ascertain the position nor keep checking whether the contesting respondent is alive. He merely awaits the call or information from his counsel about the listing of the appeal.” (emphasis supplied in original) The aforesaid passage is followed by other instructive passages too on special factors which have a bearing on what constitutes “sufficient (2008) 8 SCC 321

cause”, with reference to delay in applications for setting aside abatement and bringing the legal representatives on record. To the extent relevant for decisions on these two appeals, the same are extracted hereunder:

“15. The first is whether the appeal is pending in a court where regular and periodical dates of hearing are fixed. There is a significant difference between an appeal pending in a subordinate court and an appeal pending in a High Court. In lower courts, dates of hearing are periodically fixed and a party or his counsel is expected to appear on those dates and keep track of the case. The process is known as ‘adjournment of hearing’. ...

16. In contrast, when an appeal is pending in a High Court, dates of hearing are not fixed periodically. Once the appeal is admitted, it virtually goes into storage and is listed before the Court only when it is ripe for hearing or when some application seeking an interim direction is filed. It is common for appeals pending in High Courts not to be listed at all for several years.

(In some courts where there is a huge pendency, the non-hearing period may be as much as ten years or even more.) When the appeal is admitted by the High Court, the counsel inform the parties that they will get in touch as and when the case is listed for hearing. There is nothing the appellant is required to do during the period between admission of the appeal and listing of the appeal for arguments (except filing paper books or depositing the charges for preparation of paper books wherever necessary). The High Courts are overloaded with appeals and the litigant is in no way responsible for non-listing for several years. There is no need for the appellant to keep track whether the respondent is dead or alive by periodical enquiries during the long period between admission and listing for hearing. When an appeal is so kept pending in suspended animation for a large number of years in the High Court without any date being fixed for hearing, there is no likelihood of the appellant becoming aware of the death of the respondent, unless both lived in the immediate vicinity or were related or the court issues a notice to him informing the death of the respondent.

15. In view of the reasons stated *supra* and the principles laid down by the Hon’ble Apex Court, when compared with the impugned orders, the Court below erroneously dismissed the application.

16. In the said view of the fact, since the impugned order suffers from infirmity, the Civil Revision Petition is liable to be allowed subject to condition that the petitioner shall pay costs of Rs.5000/- to the

respondents within a period of two weeks from the date of receipt of a copy of this order.

17. Accordingly, the Civil Revision Petition is ***allowed***. Consequently, I.A.No.477 of 2024 in A.S.No.8 of 2019 shall stand allowed subject to compliance of conditions. There shall be no order as to costs.

As a sequel, miscellaneous applications, pending if any, shall stand closed.

JUSTICE RAVI CHEEMALAPATI

Date: 13th March, 2026

RKS