

**IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI**

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**CIVIL REVISION PETITION NOS: 3014 and 3025 of 2025**

**Versus**

... Petitioner

... Respondent

DATE OF ORDER PRONOUNCED : **27.07.2026**

SUBMITTED FOR APPROVAL:

**HONOURABLE SRI JUSTICE SUBBA REDDY SATTI**

1. Whether Reporters of Local Newspapers  
may be allowed to see the order? : Yes/No
2. Whether the copy of order may be  
marked to Law Reporters/Journals? : Yes/No
3. Whether His Lordship wish to  
see the fair copy of the order? : Yes/No

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**SUBBA REDDY SATTI, J**

**\* HONOURABLE SRI JUSTICE SUBBA REDDY SATTI**

**CIVIL REVISION PETITION NOS: 3014 and 3025 of 2025**

**% 27.07.2026**

**Civil Revision Petition Nos. 3014 and 3025 of 2025**

**Versus**

... Petitioner

... Respondents

**! Counsel for Petitioner** : Ms Kamireddy Divya, learned counsel  
for the petitioner  
**^ Counsel for Respondent** : Sri V.N.V.Surya Dattu, learned counsel  
for the respondent

**< Gist:**

**> Head Note:**

**? Cases referred:**

- 1) AIR 1997 Raj 63
- 2) (2020) 11 SCC 253
- 3) (1987) 1 Rajasthan LR 520
- 4) (2020) 11 SCC 253
- 5) (2018) 9 SCC 691
- 6) (1978) 3 SCC 258

**This Court made the following:**

APHC010596862025



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

**[3331]**

MONDAY, THE 27<sup>th</sup> DAY OF JULY 2026

**PRESENT**

**THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI**

**CIVIL REVISION PETITION NOS: 3014 and 3025/2025**

**Between:**

**...PETITIONER**

**AND**

**...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 Memorandum of Civil Revision Petition to this Hon'ble Court against the Order dated 13.02.2025 passed in I.A.No.475/2024 in H.M.O.P.No.34 of 2021 and Order dated 30.06.2025 passed in I.A.No.17/2025 in H.M.O.P.No.34 of 2021 on the file of the Court of Civil Judge (Senior Division), Kavali, Nellore District

**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 all further proceedings in H.M.O.P.No.34 of 2021 on the file of the Court of Civil Judge (Senior Division), Kavali, Nellore District and/or pass

**IA NO: 2 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 vacate the stay granted by the Hon'ble Court in CRP 3014 of 2025 order dated 14-11-2025 and pass

**Counsel for the Petitioner:**

1.KAMIREDDY DIVYA

**Counsel for the Respondent:**

1.V.N.V.SURYA DATTU

**The Court made the following common order:**

Heard Ms Kamireddy Divya, learned counsel for the petitioner and Sri V.N.V.Surya Dattu, learned counsel for the respondent.

2. Since the issue involved in both the revision petitions is interconnected, these revision petitions are disposed of by a common order. The parties to the revision petitions are referred to as the husband and the wife.

3. The husband filed the above two revision petitions against the order dated 13.02.2025 in I.A.No.475 of 2024 in H.M.O.P.No.34 of 2021 filed under Section 5 of the Limitation Act to condone the delay of 680 days in filing the petition to set aside the exparte decree, and the order dated 30.06.2025 in I.A.No.17 of 2025 in H.M.O.P.No.34 of 2021 under Order IX Rule 13 CPC on the file of the Civil Judge (Senior Division), Kavali.

4. Husband filed H.M.O.P.No.34 of 2021 on the file of the Civil Judge (Senior Division), Kavali under Section 13(1)(ia) of the Hindu Marriage Act, 1995, for dissolution of the marriage dated 26.08.2007. The summons was served on the respondent. She engaged an advocate and filed vakalat on 23.03.2022. The H.M.O.P. was adjourned for filing a counter on several dates, i.e., 23.03.2022, 11.04.2025, 28.04.2022, 23.06.2022 and 01.08.2022. On 01.08.2022, the husband appeared before the Court. The learned counsel appearing for the wife reported 'no instructions'. The trial Court set the wife ex

*parte* on 01.08.2022. The husband filed his chief examination as P.W.1 on 08.08.2022 and got marked Exs.A1 and A2. Eventually, a decree was passed dissolving the marriage on 11.08.2022.

5. Thereafter, the husband waited for five months. The wife did not file any appeal against the order dated 11.08.2022, and hence, the husband married one \_\_\_\_\_ on 11.02.2023. They were blessed with a female child named \_\_\_\_\_

6. Be that as it may, the wife filed I.A.No.475 of 2024 under Section 5 of the Limitation Act to condone the delay of 680 days in filing of the petition to set aside the *ex parte* decree. In the affidavit filed in support of the petition, it was contended that she engaged a counsel. However, the counsel colluded with her husband and misled her. Despite contacting the learned counsel, he did not inform her about the stage of the proceedings in H.M.O.P. Later, she filed the petition to condone the delay. With the above set of allegations, the wife filed I.A.No.17 of 2025 to set aside the *ex parte* decree.

7. The husband filed a counter and pleaded about the decree passed by the trial Court and his marriage with \_\_\_\_\_ and the baby born out of wedlock. The trial Court, by an order dated 13.02.2025, allowed I.A.No.475 of 2024 on payment of Rs.680/- to the DSLF through MLSC, Kavali, on or before 03.03.2025. Thereafter, the trial Court allowed I.A.No.17 of 2025 by an order dated 30.06.2025 on payment of Rs.500/- payable to MLSC, Kavali, on or before 10.07.2025.

8. Learned counsel for the petitioner would submit that no reasons were assigned by the trial Court while condoning the delay of 680 days. She would further submit that by the time when the applications were filed to condone the delay and to set aside the *ex parte* decree, the husband remarried after the expiry of the statutory period. Out of wedlock, they were blessed with a female child. The trial Court failed to assign reasons while allowing the petition to condone delay or in the petition to set aside the *ex parte* decree. Learned

counsel relied upon the judgment of the learned Single Judge of the Composite High Court in C.R.P.No.2623 of 2009 dated 06.08.2009, the order of the High Court of Rajasthan in ***Surendra Kumar vs. Kiran Devi***<sup>1</sup> and the order of the Apex Court in ***Krishnaveni Rai vs. Pankaj Rai and others***<sup>2</sup>.

9. Learned counsel for the respondent, on the other hand, would submit that the advocate appearing for the wife misled her in collusion with the husband. Out of wedlock, they were blessed with two children. Without any proper reasons, the husband discarded the wife and filed the H.M.O.P on the file of the Civil Judge (Senior Division), Kavali. The wife resides in a different place, and hence, the husband colluded with the advocate appearing for the wife, resulting in an ex parte decree.

10. **The point for consideration is:**

Whether the orders dated 13.02.2025 in I.A.No.475 of 2024 and dated 30.06.2025 in I.A.No.17 of 2025 in H.M.O.P.No.34 of 2021 on the file of the Civil Judge (Senior Division), Kavali, suffer from any illegality?

11. The facts narrated *supra* require no reiteration. As seen from the material, the husband filed H.M.O.P.No.34 of 2021 seeking divorce. The wife received summons and engaged an advocate. However, no counter was filed. The H.M.O.P was adjourned on four occasions. On 01.08.2022, the advocate appearing for the wife reported 'no instructions'. Thereafter, the husband filed the chief affidavit, got marked Exs.A1 and A2, and examined himself as P.W.1. Eventually, the marriage was dissolved by a decree and divorce was granted on 11.08.2022. Thereafter, the husband married one on 11.02.2023. Out of wedlock, they were blessed with a female child.

12. Learned Single Judge of the composite High Court in C.R.P.No.2623 of 2009 considered the identical issue where an application was filed by the wife

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<sup>1</sup> AIR 1997 Raj 63

<sup>2</sup> (2020) 11 SCC 253

under Order IX Rule 13 CPC, after 10 years of the decree, observed as follows:

*“There is another important angle to this case. After the decree of divorce was granted to him, the petitioner married another woman, and is said to have begot a child through her. That marriage was very much legal, since it was performed after the marriage between the petitioner and the respondent was dissolved. The effect of the order under revision would be, that the marriage of the petitioner with another woman would become illegal. The couple would become guilty of bigamy. The children born out of that wedlock would become illegitimate. When such serious consequences, as to their social status are involved, the present wife of the petitioner and the children through that marriage, become the effected parties, and they would have a say in the matter. No efforts were made in this direction.”*

Eventually, the order passed by the trial Court was set aside.

13. The Hon’ble Rajasthan High Court in **Surendra Kumar’s** case observed as follows:

*“6. It has not been disputed before me that after passing of the ex parte decree in favour of the petitioner by the Distt. Judge on 11-8-1992, the petitioner contacted a second marriage after four months. In such a situation, the important question that arises for determination is whether the ex parte decree can be set aside?*

*7. This question arose in **Harjeet Singh v. Guddi’s case**<sup>3</sup>, , and it was held by this Court that when second valid marriage is contacted, it is in the interest of justice to dismiss the application for setting aside the ex parte decree for divorce. Again the same question was considered in Smt. Shimla Devi v. V. Kiran Kumar’s case, (1994) 3 WLC 519, and it was held that by contacting a second marriage, the interest of second wife intervenes. Reference was also made to P. Venkateswarlu v. Motor & General Traders, AIR 1975 SC 1409 for the proposition that all the proceedings of the courts can and must take conscious cognizance of events and developments subsequent to the institution of the proceedings provided the rules of fairness to both the sides are scrupulously obeyed. For the above reasons, it was held that the application moved by the first wife under Order 9, Rule 13 for setting*

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<sup>3</sup> (1987) 1 Rajasthan LR 520

*aside the ex pane decree passed against her and in favour of her husband was not maintainable.”*

14. The Hon'ble Apex Court in **Krishnaveni Rai Vs Pankar Rai**<sup>4</sup> case, considered Section 15 of the Hindu Marriage Act, observed as follows:

*“32. As held by this Court in **Anurag Mittal v. Shaily Mishra Mittal**<sup>5</sup>, the object of Section 15 is to provide protection to the person who had filed an appeal against the decree of dissolution of marriage and to ensure that such appeal was not frustrated. The protection afforded by Section 15 is primarily to a person contesting the decree of divorce. As observed by Bobde, J. in his concurring judgment in **Anurag Mittal** (supra):-*

*“I am in agreement with the view taken by Nageswara Rao, J. but it is necessary to state how the question before us has already been settled by the decision in **Lila Gupta v. Laxmi Narain** [**Lila Gupta v. Laxmi Narain**, (1978) 3 SCC 258] . Even when the words of the proviso were found to be prohibitory in clear negative terms — “it shall not be lawful”, etc., this Court held that the incapacity to marry imposed by the proviso did not lead to an inference of nullity, vide para 9 of **Lila Gupta** [**Lila Gupta v. Laxmi Narain**, (1978) 3 SCC 258] . It is all the more difficult to infer nullity when there is no prohibition; where there are no negative words but on the other hand positive words like “it shall be lawful”. Assuming that a marriage contracted before it became lawful to do so was unlawful and the words create a disability, it is not possible to infer a nullity or voidness vide paras 9 and 10 of **Lila Gupta** case...*

*..... What is held in essence is that if a provision of law prescribes an incapacity to marry and yet the person marries while under that incapacity, the marriage would not be void in the absence of an express provision that declares nullity. Quae incapacity imposed by statute, there is no difference between an incapacity imposed by negative language such as “it shall not be lawful” or an incapacity imposed by positive language like “it shall be lawful (in certain conditions, in the absence of which it is impliedly unlawful)”. It would thus appear that the law is already settled by this Court that a marriage contracted during a prescribed period will not be void because it was contracted under an incapacity. Obviously, this would have no bearing on the other conditions of a valid marriage. The decision in **Lila Gupta** case thus covers the present case on law.*

33. In **Leela Gupta v. Laxmi Narain & Ors. reported**<sup>6</sup>, this Court held:

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<sup>4</sup> (2020) 11 SCC 253

<sup>5</sup> (2018) 9 SCC 691

<sup>6</sup> (1978) 3 SCC 258

*“.....the interdict of law is that it shall not be lawful for a certain party to do a certain thing which would mean that if that act is done it would be unlawful. But whenever a statute prohibits a certain thing being done thereby making it unlawful, without providing consequence for the breach, it is not legitimate to say that such a thing when done is void because that would tantamount to saying that every unlawful act is void.” (Paragraph 10).*

*“....Merely because each one of them is prohibited from contracting a second marriage for a certain period, it could not be said that despite there being a decree of divorce for certain purposes the first marriage subsists or is presumed to subsist..... An incapacity for second marriage for a certain period does not have effect of treating the former marriage as subsisting.....” (paragraph 13).*

*“Thus, examining the matter from all possible angles and keeping in view the fact that the scheme of the Act provides for treating certain marriages void and simultaneously some marriages which are made punishable yet not void and no consequences having been provided for in respect of the marriage in contravention of the proviso to Section 15, it cannot be said that such marriage would be void” (paragraph 20)”*

*34. In any case, the bar of Section 15 is not at all attracted in the facts and circumstances of this case, where the appeal from the decree of divorce had been filed almost a year after expiry of the period of limitation for filing an appeal. Section 15 permits a marriage after dissolution of a marriage if there is no right of appeal against the decree, or even if there is such a right to appeal, the time of appealing has expired without an appeal having been presented, or the appeal has been presented but has been dismissed. In this case no appeal had been presented within the period prescribed by limitation.*

*35. The bar, if any, under Section 15 of the Hindu Marriage Act applies only if there is an appeal filed within the period of limitation, and not afterwards upon condonation of delay in filing an appeal unless of course, the decree of divorce is stayed or there is an interim order of Court, restraining the parties or any of them from remarrying during the pendency of the appeal.*

*36. As observed above, the appeal was infructuous for all practical purposes, from the inception, since the Appellant's ex-husband had lawfully remarried after expiry of the period of limitation for filing an appeal, there being no appeal till then”.*

15. In the case at hand, as referred *supra*, an application to condone the delay and an application to set aside the *ex parte* decree were filed after the husband had remarried and was blessed with a female child. The learned trial court failed to consider the said aspect and the expressions of the Apex Court and other High Courts referred to *supra* while condoning the delay and also setting aside the *ex parte* decree.

16. Apart from the same, the trial court failed to assign reasons while condoning the delay of 680 days. Of course, this Court is not swayed away by the observations of the trial court *vis-à-vis* the conduct of the wife in the court. The legal position referred to *supra* supports the case of the petitioner. The trial Court, in the considered opinion of this Court, failed to exercise its jurisdiction properly. If the order of the trial Court is allowed to continue, it would cause a travesty of justice. Therefore, the orders under revision warrant interference.

17. Given the facts and circumstances of the case and discussion *supra*, orders dated 13.02.2025 in I.A.No.475 of 2024 and dated 30.06.2025 in I.A.No.17 of 2025 in H.M.O.P.No.34 of 2021 on the file of the Civil Judge (Senior Division), Kavali are hereby set aside. I.A.No.475 of 2024 and I.A.No.17 of 2025 stand dismissed. However, this order will not preclude the respondent from claiming statutory entitlements, if any, as per law.

18. Accordingly, the civil revision petitions are disposed of. There shall be no order as to costs.

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

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**JUSTICE SUBBA REDDY SATTI**

Dated: 27.07.2026  
SNI

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**THE HON'BLE SRI JUSTICE SUBBA REDDY SATTI**

**CIVIL REVISION PETITION Nos.3014 and 3025 of 2025**

Dated: 27.07.2026  
SNI