

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE
&
HON'BLE MR. JUSTICE NINALA JAYASURYA

I.A.No.1 of 2023 in W.A.No.282 of 2023, I.A.No.1 of 2023 in
W.A.No.283 of 2023, I.A.No.1 of 2023 in W.A.No.284 of 2023 &
I.A.No.1 of 2023 in W.A.No.285 of 2023

Between:-

The State of Andhra Pradesh,
 represented by its Principal Secretary,
 Land Acquisition & 3 others Petitioners/Writ Appellants

And

A.Yellamma & 54 others Respondents/Writ Petitioners

Counsel for the Petitioners : Learned Government Pleader for
 Land Acquisition

Counsel for the Respondents : Mr.S.Lakshminarayana Reddy

COMMON ORDER
(10.04.2023)

(Per Justice Ninala Jayasurya)

Aggrieved by the Common Order dated 28.10.2021 in dismissing the Writ Petitions, the above Appeals along with Interlocutory Applications to condone the delay of 459 days in filing the same have been preferred, which are being disposed of by this Common Order.

2. The appellants herein are respondents in the Writ Petitions, wherein their action in not paying the compensation to the writ petitioners/respondents in respect of the structures covered under the Awards which have been determined by the Reference Court and as confirmed by the Appellate Court, despite oral and written representations is challenged and a consequential direction for payment of compensation to the respective writ petitioners/respondents is sought for. A Learned Single Judge of this Court after detailed discussion and relying on a catena of Judgments rendered by the High Court as also the Hon'ble Supreme Court allowed the Writ Petitions.

3. The Learned Government Pleader for Land Acquisition while referring to the various grounds raised in the appeals sought to impress upon this Court that the order of the Learned Single Judge is not sustainable in Law. In so far as delay of 459 days in filing the appeals is concerned, the learned Government Pleader submits that due to administrative reasons the delay occurred and unless the same is condoned, the State/appellants would suffer serious prejudice, great hardship and irreparable loss. She submits that the appellants have a very good case on merits and seeks to hear the appeals by condoning the delay.

4. On the contrary, the learned counsel for the respondents/writ petitioners opposed the request for condonation of delay contending that the extraordinary delay of 459 days in filing the appeals has not been properly explained. Referring to the averments made in the Counter Affidavit, he submits that the Learned Single Judge allowed the Writ Petitions on 28.10.2021 and as the order was not implemented, the respondents/writ petitioners were constrained to file C.C.No.4710 of 2022, the appellants have taken time for filing Counter thrice, ultimately the Learned Single Judge issued Form-I Notice and thereafter the appellants filed the present appeals. He submits that under the said circumstances, the appellants are not entitled for the indulgence of this Court and their prayer for condonation of delay deserves no consideration. He submits that the Writ Appeals are devoid of merits and urges for dismissal of the same by rejecting the prayer for condonation of delay.

5. This Court has considered the submissions made and perused the material on record. At the outset, it may be appropriate to state that though the Learned Government Pleader made some submissions on the merits of the case, this Court is not required to examine the same, unless the delay is satisfactorily explained by assigning sufficient reasons.

6. In the Affidavit filed in support of the Petition, the delay of 459 days is sought to be explained stating that the order of the High Court dated 28.10.2021 was received on 08.11.2018 (sic 08.11.2021), that the legal opinion in respect of the order of the Hon'ble Court was furnished by the learned Government Pleader on 20.04.2022, that the Special Deputy Collector (LA) joined duty on 13.02.2022 and since then the office is over-burdened with CM Priority Projects i.e., GNSS-HNSS Lift Irrigation Scheme, Kaletivagu Reservoir, Sreenivasapuram Reservoir, Kundu Lift Irrigation Scheme & TGP Canals Work under SPVBR and that till recently the office has been functioning only with one Special Deputy Collector against the sanctioned strength of 3 Special Deputy Collectors.

7. As seen from the record, the condone delay petition was filed on 28.02.2023. In so far as the reasons as set out in the Affidavit are concerned, the details/dates on which the legal opinion was sought for have not been duly stated, except the date of furnishing of the opinion on 20.04.2022. Thereafter, it took about 10 months for filing the present Appeals and the delay is sought to be justified on the premise that the Office of the Special Deputy Collector (LA) is over-burdened with CM Priority Projects and only one Special Deputy Collector is functioning, but the said reasons merits no appreciation. It appears as though filing of Appeals after suffering adverse order is of not much importance or of any priority to the authorities. The undisputed fact that the appeals were filed

only after issuance of Form-I Notices in the Contempt Case makes it clear that the authorities have not acted in the matter with due diligence. Further, though day-to-day delay is not explained, sufficient cause should be assigned for condonation of the delay. It is settled Law that the State/its machinery/officials should not be differentiated with the private individuals in the matters of filing of Appeals with delay. The delay has not been satisfactorily explained by assigning sufficient cause nor the reasons assigned in the present case, would justify the condonation of delay.

8. The Hon'ble Supreme Court time and again deprecated the lackadaisical attitude of State/Departments in filing the Appeals with huge delays and was not inclined to condone the same.

9. The casual manner in which applications to condone the delay in filing the Appeals are being filed has been disapproved by the Hon'ble Supreme Court in a fleet of cases. In **Chief Post Master General & Ors. vs. Living Media India Ltd., & Anr. [2012 (3) SCC 563]**, the Hon'ble Apex Court *inter alia*, opined as follows:-

"13. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an

anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

10. In the light of the above factual and legal position, this Court is not inclined to condone the delay. Accordingly, the Interlocutory Applications seeking to condone the delay are dismissed. Consequently, all the Writ Appeals also stand dismissed. There shall be no order as to costs.

PRASHANT KUMAR MISHRA, CJ

NINALA JAYASURYA, J

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Dated : 10.04.2023