

**THE HON'BLE ACTING CHIEF JUSTICE A.V. SESA SAI  
AND  
THE HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

**IA.No.1 of 2023  
in/and  
WRIT APPEAL No.407 of 2023**

**JUDGMENT:** (per A.V. Sesa Sai, ACJ)

Heard Smt A. Sree Jayanthi, learned Government Pleader for Land Acquisition, for the appellants and Sri Balaji Medamalli, learned counsel for the 1<sup>st</sup> respondent - writ petitioner.

2. I.A.No.1 of 2023 is an application filed under Section 5 of the Limitation Act, seeking condonation of delay of 1624 days in filing the writ appeal against the orders, dated 10.10.2018 in WP.No.44826 of 2017.

3. W.P.No.44826 of 2017 came to be allowed by the learned single Judge *vide* order dated 10.10.2018. The present writ appeal came to be filed on 15.04.2023. In the affidavit filed in support of the delay condonation application, the following reasons are assigned at paragraph No.3, which read as under:

*“a. The Special Deputy Collector (L.A), T.G.P Unit – I, Kadapa and Veligallu Project, Rayachoty was disbanded and two units are merged into the Office of the Special Deputy*

*Collector (L.A), T.G.P Unit-II, Kadapa, vide G.O.Ms.No.189, Finance Dept., Dated 01.12.2017. And so many files are old files to be traced out for filing of Writ Appeal.*

*b. Sri G. Jaya Kumar the then Special Deputy Collector (L.A) was transferred and posted as Special Deputy Collector (L.A) in this office on 19.02.2019 for the purpose of General Elections-2019.*

*c. It is submitted that, the orders of the Hon'ble High Court in W.P.No.44826 of 2017 dated 10.10.2018 was received on 13.12.2018 and addressed to the Govt. Pleader for L.A., High Court of A.P., Vijayawada for legal opinion by the orders of the Hon'ble High Court. The Govt. Pleader has issued legal opinion on 13.03.2019.*

*d. The then Special Deputy Collector (L.A) has been designated as Electoral Registration Officer for 130-Kamalapuram Assembly Constituency (SC) and work relating Registration/Deletion of voters was entrusted in respect of said constituency. Further the then LAO was on verge of superannuation and not paid much attention towards the work related to the court cases. Subsequently my predecessor was fully engaged with the functions of Returning Officer for 130-Kamalapuram Assembly Constituency (SC), YSR District in General Elections 2019 until*

*completion of counting on 23.05.2019 further court vacation followed up to 02.06.2019.*

*e. The then Special Deputy Collector Sri G. Jaya Kumar was retired from service on attaining the age of superannuation of 60 years on 31.10.2019.*

*f. It is further submitted that M. Nagaraja, the Special Deputy Collector (L.A), O/o the G.N.S.S., Unit-II, Kadapa and the Petitioner/appellant in the Writ Appeal was kept Full Additional Charge as Special Deputy Collector (L.A) (Full Additional Charge), T.G.P. Unit-II, Kadapa on 01.11.2019 in place of Sri G. Jaya Kumar, retired Special Deputy Collector (L.A), T.G.P Unit-II, Kadapa and he has joined duty on 01.11.2019.*

*g. The Special Collector (L.A), G.N.S.S., Kadapa has requested the Special Chief Secretary to Government, Water Resources Department, A.P., Secretariat, Amaravathi to issue instructions to the Advocate General for filing review petitions on the orders of the Hon'ble High Court passed in terms of Mekala Pandu cases and also defend all Writ Petitions which are pending before the Hon'ble High Court and also to the similar cases to be filed in future vide reference A/176/KDP/2019, dated 29.11.2019.*

*h. The Government vide reference letter No.ICD01/619/2019-L.A., Dated 16.08.2019 addressed to the Learned Advocate General, Hon'ble High Court of A.P., Amaravathi to defend the W.Ps/W.As/CCs and filed the Writ Appeals/Reviews as required and se that the judgment in favour of Government and instructed this office to pursue the cases with the O/o Learned Advocate General, Hon'ble High Court of A.P., Amaravathi.*

*i. Later, the then Special Deputy Collectors namely M. Nagaraja, Smt. P. Rohini and T. Ajay Kumar acted as incharge Special Deputy Collectors did not show much interest in pending court cases due to their regular work burden. After that Sri K. Venkata Reddy was posted as regular Special Deputy Collector (LA), TGP Unit-II, Kadapa and he joined duty on 01/06/2020. He was engaged in Covid-19 Control efforts as he was appointed as District Covid monitoring Cell nodal Officer. He was also got transferred within three months.*

*j. From then till 13/02/2022, this office was headed by incharge Officers. I also bring to your kind notice that until recently this office has been functioning with only one Special Deputy Tahsildar against the sanctioned strength of 3 Special Deputy Tahsildars.*

*k. It is further submitted that A. Chandra Mohan, Special Deputy Collector (L.A) was transferred and posted as Special Deputy Collector (L.A) in this office and he joined duty on 13.02.2022. Since then this office is over burdened with CM Priority Projects i.e., GNSS-HNSS Lift Irrigation Scheme, Kaletivagu Reservoir, Sreenivasapuram Reservoir, Kundu Lift Irrigation Scheme and TGP Canals work under SPVBR.*

*l. Further submitted that I have taken over the charge of post of the Special Deputy Collector (L.A), T.G.P Unit-II, Kadapa on 13.02.2022. Due to the above reasons, I could not file the writ appeal within time on the orders of the Hon'ble High Court. I submit that the delay was neither intentional nor negligence. It is humbly submitted that the delay occurred is purely on administrative grounds. ”*

4. Resisting the application filed for condonation of delay, a counter-affidavit has been filed by the 1<sup>st</sup> respondent - writ petitioner.

5. According to the learned Government Pleader, the reasons assigned in the affidavit filed in support of the delay condonation application are sufficient for condoning the delay in filing the writ appeal. It is the further submission of the learned Government Pleader that the appellants herein have

excellent chances of succeeding in the writ appeal, as such, the delay needs to be condoned by adopting liberal approach. To bolster her submissions and contentions, learned Government Pleader places reliance on the Judgment of the Hon'ble Apex Court in Civil Appeal No.4335 of 2023, dated 13.07.2023.

6. Per contra, Sri Balaji Medamalli, learned counsel for the writ petitioner, strongly resisting the delay condonation application, contends that in the absence of sufficient reasons in the supporting affidavit, the application for condonation of exorbitant delay of 1624 days is liable to be rejected. It is further submitted by the learned counsel that while dealing with the applications filed under Section 5 of the Limitation Act, the State and its instrumentalities are also required to be treated on par with any other litigant. In support of his submissions and contentions, learned counsel places reliance on the Judgment of the Hon'ble Apex Court in ***Majji Sannemma alias Sanyasi Rao v. Reddy Sridevi and others*** [2021 SCC Online SC 1260].

7. The information available before this Court reveals that the writ petition came to be allowed by the learned single Judge of the Common High Court of Andhra Pradesh *vide* order, dated 10.10.2018, and admittedly, the present appeal came to be preferred on 15.04.2023. A perusal of the contents of the affidavit filed in support of the delay condonation application discloses that except referring to the correspondence between various officers of the State, no sufficient reasons are assigned for condonation of delay of 1624 days in filing the appeal. In this context, reference to the Judgment of the Hon'ble Apex Court in **Majji Sannemma v. Reddy Sridevi and others** (supra) is necessary and essential. Paragraph Nos.20, 21 & 22 of the said Judgment read as follows:

*“20. In the case of Basawaraj (supra), it is observed and held by this Court that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case. It is further observed that the expression “sufficient cause” cannot be liberally interpreted if negligence, inaction or lack of bona fides is attributed to the party. It is further observed that even though limitation may harshly affect rights of a party but it has to be applied with all its rigour when prescribed by statute. It is further observed that in case a party has acted with negligence, lack*

*of bona fides or there is inaction then there cannot be any justified ground for condoning the delay even by imposing conditions. It is observed that each application for condonation of delay has to be decided within the framework laid down by this Court. It is further observed that if courts start condoning delay where no sufficient cause is made out by imposing conditions then that would amount to violation of statutory principles and showing utter disregard to legislature.*

21. *In the case of Pundlik Jalam Patil (supra), it is observed by this Court that the court cannot enquire into belated and stale claims on the ground of equity. Delay defeats equity. The Courts help those who are vigilant and “do not slumber over their rights”.*

22. *Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand and considering the averments in the application for condonation of delay, we are of the opinion that as such no explanation much less a sufficient or a satisfactory explanation had been offered by respondent Nos.1 and 2 herein – appellants before the High Court for condonation of huge delay of 1011 days in preferring the Second Appeal. The High Court is not at all justified in exercising its discretion to condone such a huge delay. The High Court has not exercised the discretion judiciously. The reasoning given by the High Court while condoning huge delay of 1011 days is not germane. Therefore, the High Court has erred in condoning the huge delay of 1011 days in preferring the appeal by respondent Nos.1 and 2 herein – original defendants. Impugned order passed by the High Court is unsustainable both, on law as well as on facts.”*

Coming to the Judgment cited by the learned Government Pleader, i.e., the Judgment of the Hon'ble Apex Court in Civil Appeal No.4335 of 2023, it is to be noted that in the said case, the Hon'ble Apex Court, obviously taking into consideration the irreversible situation of restoration of possession of the property, condoned the delay. In the considered opinion of this Court, having regard to the facts and circumstances of the case, the said Judgment would not render any assistance to the case of the appellants herein.

8. For the afore-said reasons, IA.No.1 of 2023 is dismissed. Consequently, W.A.No.407 of 2023 is also dismissed. There shall be no order as to costs.

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**A.V. SESA SAI, ACJ**

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**R. RAGHUNANDAN RAO, J**

18.07.2023  
Vjl

**THE HON'BLE ACTING CHIEF JUSTICE A.V. SESA SAI  
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