
(2001) 11 AP CK 0096
In the Andhra Pradesh High Court
Case No : C.R.P. No. 530 of 2001

Gondi Sadasivan	Vs	APPELLANT
The State of Andhra Pradesh		RESPONDENT

Date of Decision : 19-11-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Limitation Act, 1963 — Section 5

Citation : (2002) 1 AnWR 552 : (2001) 3 APLJ 400

Hon'ble Judges : P.S. Narayana, J

Bench : Single Bench

Advocate : M.S. Prasad, for the Appellant; G.P. for L.C., for the Respondent

Final Decision : Allowed

Judgement

P.S. Narayana, J.—Heard Sri M.S. Prasad learned counsel for the petitioner and the learned Assistant Government Pleader for the respondent.

2. This civil revision petition is directed against an order made in I.A.No.20 of 1998 in L.R.A. in S.R.16 OF 1998 on the file of the Land Reforms Appellate Tribunal(II Additional District Judge), West Godavari Eluru.

3. The respondent filed the said application seeking condonation of delay of 406 days in filing the appeal. In the affidavit, filed in support of the said application, it was stated by the Authorised Officer and Special Tahasildar, Land Reforms, Bandar that judgment in C.C.742/V/75 was pronounced on 24-4-1996 and a copy of the judgment was received on 29-10-1996 and the Government Pleader had given his opinion on 15-11-1996, received on 15-11-1996 and the matter was examined with reference to the opinion of the Government Pleader and found that it is a fit case for appeal and the delay had occasioned by transfer of previous Authorised officer and hence an application was filed for condonation of delay.

4. A detailed counter was filed but however the court below had extracted only

certain portions of the counter. However, after hearing both sides, the court below on the ground that as public interest is involved in the matter had allowed the application.

5. As I can see from the nature of the order, the court below allowed the application on the ground of equity and on the ground of public interest. No doubt the learned Assistant Government Pleader had supported the impugned order by placing strong reliance on the observations made therein.

6. The learned counsel for the revision petitioner had drawn my attention to the affidavit filed in support of the application and also the detailed counter wherein all the details have been specified in detail which have not been considered by the court below. The learned counsel also had further contended that allowing of an application u/s 5 of Limitation Act on equitable grounds, sufficient cause not shown had been deprecated repeatedly by our courts. The learned counsel placed reliance on the decisions in P.K. RAMCHANDRAN V STATE OF KERALA 1 and in NATIONAL INDIA ASSURANCE COMPANY V SARADA PRASAD 2.

7. Having heard both the counsel and having perused the affidavit filed in support of the application and also the counter and the impugned order made in this case, I am of the opinion that the impugned order is liable to be set aside for more than one reason. The affidavit filed in support of the application does not disclose any valid reasons constituting sufficient cause. In fact the allegations made in the affidavit are as vague as vagueness can be. Even in the case of Government, when an affidavit is filed in support of an application seeking condonation of delay, if allowed, it will virtually amounts to extending period of limitation.

8. The affidavit should disclose valid and cogent reasons constituting sufficient cause within the meaning of section 5 of Limitation Act. In the absence of the same I am of the opinion that mere fact that the party is Government will not make any difference as far as this aspect is concerned. In the present case, the affidavit filed in support of the application does not disclose any valid reasons for condoning the inordinate delay of 406 days and the court below had adopted an erroneous approach in allowing such application which in my considered opinion is definitely an illegal exercise of jurisdiction which warrants interference u/s 115 of C.P.C. by this court.

9. For the foregoing reasons the impugned order is set aside and the C.R.P. is allowed but however in the facts and circumstances of the case, no order as to costs.