

(2012) 03 AP CK 0078

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 4595 of 2011

M. Yerrappa (died) by L.Rs. and M. Satyanarayanappa and
others

APPELLANT

Vs

The Authorised Officer, Land Reforms Appellate Tribunal,
Anantapur, Anantapur District

RESPONDENT

Date of Decision : 21-03-2012

Acts Referred:

Citation : (2012) 4 ALD 124 : (2012) 4 ALT 132

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

**Advocate : O. Manohar Reddy, for the Appellant; G.P. for Arbitration, for the
Respondent**

Final Decision : Allowed

Judgement

C.V. Nagarjuna Reddy, J.—This Civil Revision Petition arises out of order, dated 21.07.2011, in I.A. No. 3 of 2006 in L.R.A. No. 4 of 2008 on the file of the Land Reforms Appellate Tribunal, Anantapur. The respondent is the appellant in L.R.A. No. 4 of 2008 on the file of the Land Reforms Appellate Tribunal, Anantapur. The said appeal was filed against order, dated 19.10.2010, in C.C. No. 4060 to 4069/75/RDG on the file of the Land Reforms Tribunal & R.D.O., Anantapur. As there was delay in filing the said appeal, the respondent filed I.A. No. 3 of 2006 for condonation of delay of 1869 days in filing the appeal. The petitioners filed a counter affidavit opposing the said application. By order, dated 30.04.2008, the appellate Tribunal allowed the said application. Questioning the said order, the petitioners filed C.R.P. No. 2764 of 2008 in this Court. The said Civil Revision Petition was allowed by this Court by order, dated 19.10.2010, whereby this Court had set aside the order of the appellate Tribunal and remanded the case with a direction to the appellate Tribunal to give opportunity to both parties to let in evidence as abnormal delay of 1869 days was involved.

2. After remand, oral evidence was let in by both parties. On behalf of the

respondent, Authorised Officer, Land Reforms, was examined as PW.1 and, on behalf of the petitioners, petitioner No. 2 was examined as RW.1. The appellate Tribunal, by its order dated 21.07.2011, condoned the delay and allowed the I.A. Feeling aggrieved thereby, the petitioners preferred the present Civil Revision Petition.

3. I have heard Sri O. Manohar Reddy, learned counsel for the petitioners, and the learned Government Pleader for Arbitration appearing for the respondent.

4. In his affidavit filed on behalf of the respondent, the Special Tahsildar, Land Reforms, inter alia stated that the case was previously entrusted to the Government Pleader with a request to file appeal; that the Government Pleader informed them that an appeal was filed into Court and that he will get the appeal numbered and intimate the stage of the case; that recently, on enquiry made with regard to the stage of the case, the (successor) Government Pleader revealed that no appeal is pending before the Court and that as the papers were not traced by the then Government Pleader, a fresh appeal is being filed. In his chief-affidavit, G. Siva Rama Krishna, Authorised Officer, Land Reforms, deposed that on 13.08.2003, the then Government Pleader informed them through Ex. A1-letter that he has filed an appeal; that the subsequent enquiries made by his predecessor with the Government Pleader revealed that no appeal was pending and, hence, a fresh appeal was filed with a delay of 1869 days. In his cross-examination, he has deposed as under:

"We have addressed several letters on 17.10.2003, 14.11.2003, 16.2.2004, 17.3.2004 to the G.P. asked (sic asking) him to inform about the stage of appeal. But the G.P did not send any reply to us. We had brought to the notice of Collector about letters sent to the G.P. and non receipt of reply from him. The District Collector also addressed letters to the previous G.P on 20.7.2004. The successor G.P by name P.L. Eeswar Reddy had informed us through a letter dated 19.7.2004 saying that no appeal had been filed by the previous G.P. On receiving that information immediately we have filed this petition along with the appeal."

Emphasis Added

5. The appellate Tribunal, in its order, has not adverted to the cross-examination of PW.1 at all. It has placed reliance on Ex. A1-letter, dated 13.08.2003, and some correspondence exchanged between the parties. The appellate Tribunal observed that it cannot be ignored that the appeal cannot be filed by the Government directly, but it has to depend upon the services of the Government Pleader and that it is clear from the evidence of PW.1 that there was an effort made by the respondent to entrust the file to the previous Government Pleader and that they could not know whether the appeal was filed or not till the new Government Pleader had informed them about the non filing of the appeal.

6. The law is well settled that while considering the application for condonation of delay, the Courts shall not make a rigid approach. The Courts also recognized the inherent disadvantages, which the State suffers in pursuing litigation, and have

also been adopting some what liberal approach while dealing with the applications filed by the State and its Officers for condonation of delay. It, however, needs to be noted that long delays cause untold hardship to the opposite parties in adversarial litigation. While some latitude certainly needs to be shown especially in favour of the State and its Officers, the liberal approach should not eventually lead to harassment of the opposite party. From the admissions made by PW.1, it is evident that even after the successor Government Pleader has informed them through his letter, dated 19.07.2004, that no appeal was filed as was earlier held out by the previous Government Pleader, the respondent failed to file appeal till July, 2006. This means, the respondent has kept quiet for two long years even after he was informed by the Government Pleader that no appeal was filed. There is absolutely no explanation whatsoever forthcoming from the respondent for this enormous delay in filing the appeal. The appellate Tribunal has lost sight of this crucial aspect in condoning the abnormal delay of 1869 days in filing the appeal. This case has already witnessed change of one generation. The original declarant died and the petitioners have come on record in his place. Already 35 years had elapsed from the starting point of the litigation. Any latitude shown at this stage in favour of the respondent would lead to further prolongation of the litigation for many more years. In the light of these facts, I am of the opinion that the respondent miserably failed to offer satisfactory explanation for condonation of huge delay and the appellate Tribunal has committed a serious error in condoning the delay. For the abovementioned reasons, the order of the appellate Tribunal is set aside and the Civil Revision Petition is, accordingly, allowed. As a sequel, CRPMP. No. 6525 of 2011 is disposed of as infructuous.