
(2007) 10 AP CK 0080
In the Andhra Pradesh High Court
Case No : CRP No. 2099 of 2007

Tatipalli Vazaramma

APPELLANT

Vs

Revuri Devaiah and Others

RESPONDENT

Date of Decision : 29-10-2007

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 21 Rule 106, 21
Limitation Act, 1963 — Section 5

Citation : (2008) 1 ALD 753 : (2008) 1 ALT 442

Hon'ble Judges : G. Yethirajulu, J

Bench : Single Bench

Advocate : V. Tulasi Reddy, for the Appellant; P. Giri Krishna, for the Respondent

Final Decision : Dismissed

Judgement

G. Yethirajulu, J.—This revision petition is filed by the Decree Holder against the order in E.A. No. 16 of 2007 in E.A. No. 19 of 2005 in ; E.P. No. 7 of 2005 in O.S. No. 131 of 2004 on the file of the Principal Junior Civil Judge, Kamareddy, which reads as follows:

Perused the petition and counter. As can be seen from Section 5 of Limitation Act it is not applicable to any of the provisions of Order 21 of C.P.C. In view of the legal provision the present petition to condone the delay in filing petition u/s 21, Rule 106 CPC is not maintainable.

Hence the petition is dismissed as not maintainable under law.

2. The lower Court observed that Section 5 of the Limitation Act is not applicable to any of the provisions of Order 21 of C.P.C.

3. In Damodaran Pillai and Others Vs. South Indian Bank Ltd., , the Supreme Court held:

The Civil Court in absence of any express power cannot condone the delay. For the purpose of condonation of delay in absence of applicability of the provisions

of Section 5 of the Limitation Act, the Court cannot invoke its inherent power. The application of Section 5 of Limitation Act has been excluded in proceedings under Order 21 of the Code. Thus an application u/s 5 of the Limitation Act is not maintainable in a proceeding arising under Order 21 of the Code. A fortiori for the said purpose, inherent power of the Court cannot be invoked.

4. In the light of the above legal position, the Application filed before the lower Court cannot be maintained, therefore, the lower Court was right in dismissing the Application. I do not find any grounds to interfere with the order passed by the lower Court.

Hence, the revision petition is Dismissed. No order as to costs.