

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD**

**C.R.P.NO.383 OF 2023**

**Between:**

Mr K.Manikantha

... Petitioner

And

K.Madhavi Latha and others

... Respondents

**JUDGMENT PRONOUNCED ON: 25.04.2023**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : yes  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : yes  
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : yes  
see the fair copy of the Judgment?

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**SUREPALLI NANDA, J**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

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< Gist:

> Head Note:

! Counsel for the Petitioners : Mr Akula Shyam Sunder

^ Counsel for the Respondents: Mrs M.Sreenath

? Cases Referred:

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****C.R.P.NO.383 OF 2023****ORDER:**

**This Civil Revision Petition is filed challenging the propriety and legality of the order dated 11.01.2023 in I.A.No.136 of 2021 in O.S.No.20 of 2018 on the file of the Principal District Judge at Jogulamba, Gadwal.**

2. The petitioners/defendants filed I.A.No.136 of 2021, under Section 5 of the Limitation Act, 1963, seeking condonation of delay of 661 days in filing the petition to set aside the exparte decree passed against them. The plea of the petitioners is that the suit was posted for filing their written statement, but their counsel did not inform them about it and so they could not file the written statement within time and the Court consequently forfeited their right to file written statement and on 27.08.2019, exparte decree was passed and that they were residents of Bellary and their's is a big family and the petitioners 2 to 4 are students preparing for competitive examinations and that the first petitioner does not know about the facts of their case and their counsel did not inform them anything about their case.

3. The respondents/plaintiffs filed counter denying the plea taken by the petitioners and alleged that the petitioners had suppressed material facts and that the delay is abnormal and explanation given is not satisfactory and so there is no sufficient cause shown by the petitioners to condone the delay and therefore, the petition is liable to be dismissed.

4. After considering the material on record vide the impugned order dated 11.01.2023 in I.A.No.136 of 2021 in O.S.No.20 of 2018 the Principal District Judge at Jogulamba, Gadwal dismissed the petition. Being aggrieved by the said order, it is only the 5<sup>th</sup> petitioner/defendant No.5 had filed the present C.R.P. by arraying the other petitioners as respondents 5 to 8 in the present revision petition.

**5. Heard both the learned counsel on record and also perused the record.**

#### **DISCUSSION AND CONCLUSION**

6. The cause shown for condoning the delay of 661 days is that their counsel had not informed them that written statement had to be filed and that subsequent to 05.07.2019 on which date their right to file written

statement was forfeited, there was no intimation by the counsel about the stage of the suit. The petitioners apparently blamed their counsel for their failure to file their written statement within time and for passing of the exparte decree against them. That stand taken by the petitioners is quite unacceptable for the simple reason that it is the petitioners, that should have gone to their counsel to know the progress of the suit and to give instructions for filing the written statement well within time. That apart, in the civil revision petition, the cause shown for condoning the delay is quite contra to what is stated in the affidavit filed by the first petitioner in the lower Court.

7. In para 8 of the revision petition it is stated that the petitioner i.e. petitioner No.5/defendant No.5, came to know about the exparte decree in the month of March,2020 and after that he along with other petitioners could not meet their counsel since there was COVID-19, pandemic from March, 2020, till August, 2021 and that after the lockdown was lifted he (revision petitioner) approached his counsel and filed

**the petition before the lower Court. This version given by the revision petitioner does not find place in the affidavit filed by the 1<sup>st</sup> petitioner before the lower Court. This Court opines that inconsistency reflects the falsity of the plea taken for condonation of the delay of 661 days.**

**8. A perusal of the impugned order dated 11.01.2023 in I.A.No.136 of 2021 in O.S.No.20 of 2018 on the file of the Principal District Judge at Jogulamba, Gadwal shows that the lower Court after appreciating the rival contentions came to a right conclusion in rejecting the plea of the petitioners for condonation of the delay.**

**9. The impugned order dated 11.01.2023 in I.A.No.136 of 2021 in O.S.No.20 of 2018 on the file of the Principal District Judge at Jogulamba, Gadwal does not suffer from any legal infirmity nor is there any irregularity or illegality in passing the order.**

10. In view of the above discussion, the present civil revision petition is dismissed. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand dismissed.

**SUREPALLI NANDA, J**

Date: 25.04.2023

Note : L.R. copy to be marked

b/o

Kvrm