

APHC010499172025



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3529]

**TUESDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

WRIT APPEAL No.1143/2025

Writ Appeal under clause 15 of the Letters Patent be pleased to set aside the order dated 28.02.2025 in WP. No. 500 of 2016 passed by the Learned Single Judge of this Honorable Court and pass

Between:

1. SHAKEEL PASHA, S/O (LATE) HAJEE KHALAQ SHARIFF, AGED ABOUT 60 YEARS, OCC BUSINESS, R/O 11, LEONARD LANE, RICHMOND TOWN. BANGALORE KARNATAKA-560 025 .

...APPELLANT

AND

1. THE STATE OF ANDHRA PRADESH, REP BY ITS PRINCIPAL SECRETARY, REVENUE DEPARTMENT, SECRETARIAT, VELAGAPUDI, GUNTUR DISTRICT.
2. THE DISTRICT COLLECTOR, CHITTOOR, CHITTOOR DISTRICT.
3. THE REVENUE DIVISIONAL OFFICER/SUB COLLECTOR, MADANAPALLI, CHITTOOR DISTRICT
4. THE TAHASILDAR, RAMAKUPPAM MANDAL, CHITTOOR DISTRICT

...RESPONDENT(S):

IA No.1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition,

the High Court may be pleased to dispense with the filing of the certified copy of the order dated 28.02.2025 in WP. No. 500 of 2016 and/or and pass

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of 31 days in filing the Writ Appeal and pass

IA NO: 3 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the proceedings Roc No. 740/96 dated 18.11.1996 passed by the Respondent No.4 herein, pending the hearing and final disposal of the present Appeal and pass

IA No: 4 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the order dated. 28.02.2025 passed in WP.No. appeal and pass s 500 of 2016 by the learned single judge of this Hon'ble Court pending disposal of writ

IA NO: 5 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to implead the proposed respondents as Respondent No. 5 & 6 respectively in the Captioned Writ Appeal and pass

Counsel for the Appellant:

1.SHAIK MD UMAR ABDULLAH

Counsel for the Respondent(S):

1.GP FOR REVENUE

The Court made the following:

HON'BLE SRI JUSTICE RAO RAGHUNANDAN RAO

AND

HON'BLE SRI JUSTICE T.C.D. SEKHAR

WRIT APPEAL No.1143 OF 2025

JUDGMENT:- *(Per Hon'ble Sri Justice T.C.D. Sekhar)*

1. The present writ appeal is directed against order dated 28.02.2025 passed in WP No.500 of 2016.

2. The appellant filed the above writ petition questioning the proceedings in ROC.No.740/1996, dated 18.11.1996 under which the assignment made in respect of land admeasuring an extent of Ac.1.90 cents in Sy.No.532/2 of Ramakuppam Village and Mandal, Chittoor District was cancelled and the land in question was resumed to government.

3. It is the case of the appellant that originally the land in question was assigned in favour of one Sri Kallati Lakshma Reddy in the year 1930 to 1932 when he was a minor at the time of assignment, his mother Smt.Papamma should as guardian. It is his further case that after series of transactions, he purchased the said land by virtue of Registered Sale Deed dated 05.11.1990 vide document No.2292 of 1990. It is further stated that he was issued pattadar pass books in respect of the subject lands.

4. It is further stated that the 3rd respondent cancelled the assignment in the year 2010 without knowledge of the appellant or the original assignee or vendor of the appellant and also changed the nature of the land by proceedings dated 11.07.1996. As the petitioner was not put on notice before passing the order of cancellation dated 18.11.1996, he approached this Court by filing the above writ petition.

5. On the other hand, the 4th respondent filed counter affidavit contending that the subject land was resumed in the year 1996 and the writ petition was filed in the year 2016 i.e., after a period of 20 years. It is further stated that before passing the cancellation order, notice was issued to the appellant, despite the same he did not turn up nor file any reply/objections. Thereafter, the subject land was resumed to government and the same was implemented in the revenue records. It is further stated that the subject land was given in lease in favour of M/s.Lakshmi Granites, Bharat Nagar, V.Kota, Village & Mandal by the Assistant Director of Mines and Geology, Palamaner for a period of 15 years., i.e., from 14.11.1997 to 13.11.2012. Subsequently, the said Lease Deed was renewed upto 21.07.2034.

6. A learned Single Judge of this Court by order dated 08.02.2025 dismissed the writ petition on the ground of laches. Aggrieved by the same the present writ appeal is filed.

7. Heard counsel for the petitioner and learned Assistant Government Pleader for Revenue.

8. Perused the material available on record.

9. It is the case of the appellant that he has purchased the subject land by virtue of Register Sale Deed dated 05.11.1990 and he was issued pattadar pass book. On perusal of the record, it is evident that the subject land was resumed by order dated 18.11.1996 after issuing notice to the petitioner and his vendor. It is not in dispute that the subject land was given on lease to M/s. Lakshmi Granites for a period of 15 years from 14.11.1997 to 13.11.2012 and later the lease was renewed and the same is subsisting upto 21.07.2034.

10. The grant of lease in favour of M/s.Lakshmi Granites was not denied by the appellant. Therefore, it is evident that the petitioner is not in possession of the subject land from the year 1996 when the same was resumed to government by proceedings dated 18.11.1996. Further, the appellant did not file any iota of

evidence to show that he is in possession of the subject land. Furthermore, nothing is forthcoming from the appellant as to what action was initiated subsequent to grant of lease in favour of M/s.Lakshmi Granites, neither the lease holder was made as party respondent to the writ petition. Apart from the same, when third party rights have been accrued in respect of the subject land, the same cannot be light heartedly divested, especially when lease was granted way back in the year 1997. The appellant having slept over the matter has indulged in chance litigation. The Hon'ble Apex Court in the case of "**Pathapati Subba Reddy and Others v. Special Deputy Collector and Others¹**" at para 26 held as under:

"26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

¹ 2024 SCC OnLine SC 513

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”

11. Further, in the case of “**Thirunagalingam Vs.**

Lingeswaran and another²”, the Hon’ble Apex Court at paragraph

Nos.31 and 32 held as follows:-

“31. It is a well-stated law that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the bona fides of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay.

32. Further, this Court has repeatedly emphasized in several cases that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party. In the present case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet.”

² 2025 SCC OnLine SC 1093

12. In the case on hand though the resumption order passed in the year 1996, the petitioner kept quiet for 20 long years without assailing the said order. Further, despite filing of counter affidavit by the 4th respondent, he did not choose to implead the lease holder as party respondent to the writ petition. Though, an application is filed seeking to implead M/s.Lakshmi Granites in the Writ Appeal, as we are not inclined to interfere with the order of the learned Single Judge inasmuch as, the appellant miserably failed to explain the delay in filing the writ petition.

13. For the reasons recorded supra, following the judgments referred to hereinabove, the order of the learned Single Judge does not warrant interference and accordingly the Writ Appeal is dismissed.

There shall be no order as to costs. As a sequel, pending applications, if any shall stand closed.

JUSTICE RAO RAGHUNANDAN RAO

JUSTICE T.C.D. SEKHAR

18.11.2025
DR

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**THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO
AND
THE HONOURABLE SRI JUSTICE T.C.D. SEKHAR**

**WA No.1143 of 2025
Date 18.11.2025**

DR