

ITEM NO.35

COURT NO.12

REVISED
SECTION XII-AS U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 2681/2024

(Arising out of impugned final judgment and order dated 07-11-2023 in WA No. 969/2023 passed by the High Court Of Andhra Pradesh At Amravati)

THE STATE OF ANDHRA PRADESH & ORS.

Petitioner(s)

VERSUS

KOPPARLA SANTHI

Respondent(s)

Date : 19-07-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE C.T. RAVIKUMAR
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRAFor Petitioner(s) Mr. R. Basant, Sr. Adv.
Mr. Guntur Pramod Kumar, AOR
Ms. Prerna Singh, Adv.
Mr. Gautam Bhatia, Adv.
Mr. Samarth Luthra, Adv.
Mr. Dhruv Yadav, Adv.
Mr. Keshav Singh, Adv.
Mr. Sarath S. Janardhan, Adv.For Respondent(s) Ms. C. K. Sucharita, AOR
Mr. Vinod Kumar Gupta, Adv.UPON hearing the counsel the Court made the following
O R D E R

In the captioned Special Leave Petition, the petitioners seek leave to challenge the order dated 07.11.2023 passed by the High Court of Andhra Pradesh at Amaravati in Writ Appeal No.969 of 2023.

In view of the nature of the order which we propose to pass, we think it absolutely unnecessary to delve into the facts, in

detail.

Heard learned Senior Counsel appearing for the petitioners and learned counsel appearing for the respondent.

The impugned order would reveal that the Writ Appeal filed against the order dated 28.07.2021 in W.P. No. 16019 of 2020 was dismissed by the High Court after declining to condone the delay of 614 days in filing the Writ Appeal and forming an opinion that the appeal is meritless.

We will firstly deal with the delay aspects. The learned Senior Counsel appearing for the petitioners would submit that owing to an omission to claim the benefit of exclusion of some period, to which he was entitled to, in view of the orders of this Court dated 10.01.2022 passed in M.A.No.21 of 2022 in Suo Motu Writ Petition No.03 of 2020, the petitioner had to apply for condonation of delay and, in fact, if the period to be excluded based on the said decision was taken into account, practically, there was no delay at all, in preferring the said appeal.

Per contra, the learned counsel appearing for the respondent would submit that even if the said decision is relied on and the excludable period is not reckoned towards delay, still there would be a delay of about 317 days in challenging the judgment passed by the High Court of Andhra Pradesh in W.P. No.16019/2020.

The date of the disposal of the Writ Petition No.16019/2020 is 28.07.2021. The indisputable fact is that in the light of the order of this Court in M.A.No.21 of 2022 in Suo Motu Writ Petition No.3 of 2020, the period between 15.03.2020 and 28.02.2022 is bound to be condoned, while considering the question of period of limitation

in any proceedings where the period expired in between the said period. Furthermore, this Court made it clear that in respect of such matters a further period of 90 days would be available from 01.03.2022 for challenging the judgment/order concerned.

The learned Senior Counsel would submit that within the said permissible period, Review Petition IA No.1 of 2022 in WP No.16019 of 2020 was filed on 07.05.2022 and the same came to be disposed of on 04.04.2023. Therefore, an application for copy of the order was filed on 25.04.2023 and the certified copy of the same was obtained on 23.08.2023. Writ Appeal No. 969 of 2023, was then, filed within the stipulated time on 01.09.2023. After hearing the response on the said submissions from the learned counsel for the respondent, we do not find any reason for not upholding the submission on the part of the petitioners.

Taking note of the aforesaid explanation, we are of inclined to hold that petitioners have satisfactorily explained the delay, if any, in preferring appeal against the judgment in W.P. No. 16019 of 2020.

Now, the impugned judgment dated 07.11.2023 would reveal after holding that the delay was not properly explained the High Court referred to the decision of this Court the *Post Master General and others V. Living Media India Limited [(2012) 3 SCC 563]* and held that appeal would be meritless and accordingly dismissed it.

Paragraph 4 of the impugned judgment would not reveal application of mind in considering the case of the appellant, in the light of the decision referred (supra). To put it pithily, though it was held that the appeal is meritless the impugned

judgment would not disclose any reason therefor. There can be no doubt that application of mind can be reflected only through reasons. In fact, it is the cursory consideration that culminated in the impugned judgment.

It is fairly submitted by the learned Senior Counsel for the petitioners that the judgment sought to be challenged in the Writ Appeal was already complied with under threat of contempt.

This Court made it clear that compliance of an order under threat cannot take away the right of a party as available to challenge the same, in law (See the decision of this Court in *Subodh Kumar Jaiswal & Ors. v. Union of India & Ors.* [(2008) 11 SCC 139]).

In the said circumstances, the order dated 07.11.2023 passed by the High Court of Andhra Pradesh at Amravati, in Writ Appeal No.969 of 2023, virtually, dismissing the application to condone the delay and dismissing the Writ Appeal stands set aside and the delay, if any, stands condoned, for the reasons hereinbefore mentioned.

Consequently, the Writ Appeal is restored to its original number and the same shall be considered by the High Court on its own merits and in accordance with law.

The Special Leave Petition stands disposed of, as above.

Pending application(s), if any, shall stand disposed of.

(VARSHA MENDIRATTA)
COURT MASTER (SH)

(MATHEW ABRAHAM)
COURT MASTER (NSH)

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SECTION XII-A

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UPON hearing the counsel the Court made the following
O R D E R

In the captioned Special Leave Petition, the petitioners seek leave to challenge the order dated 07.11.2023 passed by the High Court of Andhra Pradesh in Amaravati in Writ Appeal No. 969 of 2023.

In view of the nature of the order which we propose to pass, we think it absolutely unnecessary to delve into the facts, in detail.

Heard learned Senior Counsel appearing for the petitioners and learned counsel appearing for the respondent.

The impugned order would reveal that the Writ Appeal filed against the order dated 28.07.2021 in W.P. No. 16019 of 2020 was dismissed by the High Court after declining to condone the delay of 614 days in filing the Writ Appeal and forming an opinion that the appeal is meritless.

We will firstly deal with the delay aspects. The learned Senior Counsel appearing for the petitioners would submit that owing to an omission to claim the benefit of exclusion of some period flowing from the orders of this Court dated 10.01.2022 passed in M.A.No.21 of 2022 in Suo Motu Writ Petition No. 03 of 2020, the petitioner had to apply for condonation of delay and, in fact, if the period to be excluded based on the decision was taken into account practically there was no delay at all, in preferring the said appeal.

Per contra, the learned counsel appearing for the respondent would submit that even if the said decision is relied on and the excludable period is not reckoned towards delay, still there would a delay of about 317 days in challenging the judgment passed by the High Court of Andhra Pradesh in W.P. No.16019/2020. The date of the disposal of the Writ Petition No.16019/2020 is 28.07.2021.

The indisputable fact is that in the light of the order of this Court in M.A.No.21 of 2022 in Suo Motu Writ Petition No.3 of

2020, the period between 15.03.2020 and 28.02.2022 is bound to be condoned, while considering the question of period of limitation in any proceedings where the period expired in between the said period.

Furthermore, this Court made it clear that in respect of such matters a further period of 90 days would be available from 01.03.2022 for challenging the judgment/order concerned.

The learned Senior Counsel would submit that within the said permissible period, Review Petition IA No.1 of 2022 in WP No.16019 of 2020 was filed on 07.05.2022 and the same came to be disposed of on 04.04.2023.

An application for copy of the order was filed on 25.04.2023 and the certified copy of the same was obtained on 23.08.2023. Thereafter, Writ Appeal No. 969 of 2023, was filed within the stipulated time on 01.09.2023. After hearing the response on the said submission from the learned counsel for the respondent, we do not find any reason for not upholding the submission on the part of the petitioners.

Taking note of the aforesaid explanation, we are of inclined to hold that petitioners have satisfactorily explained the delay, if any, in preferring appeal against the judgment in W.P. No. 16019 of 2020.

The impugned judgment dated 07.11.2023 would reveal after holding that the delay was not properly explained the High Court referred to the decision of this Court the *Post Master General and others V. Living Media India Limited [(2012) 3 SCC 563]* and held that appeal would be meritless and accordingly dismissed it.

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