

**HONOURABLE SRI JUSTICE SUBBA REDDY SATTI**

**CIVIL REVISION PETITION No.123 of 2023**

**Between:**

Laveti Naresgm S/o Apparao,  
Aged about 31 years,  
R/o D.No.32-16-4,  
Atchiyyamapeta, Allipuram,  
Visakhapatnam.

... Petitioner/Petitioner

**And**

1. Kella Venkata Ramana,  
S/o Appalaswamy,  
Aged about 41 years,  
R/o D.No.32-15-201,  
Atchiyyammamet,  
Visakhapatnam and 7 others.

... Respondent/D.Hr/J.Drs

Counsel for the petitioner : Smt. Sodum Anvesha

Counsel for respondents : --

**ORDER:**

Present civil revision petition is filed aggrieved by  
returning of the claim petition in G.R.No.706, dated 04.03.2022  
in E.P.No.102 of 2021 in O.S.No.224 of 2012 on the file of the

Special Judge for Trial of Cases under SC & ST Cases (POA)  
Act-cum-XI Additional District Judge, Viskahapatnam.

2. 1<sup>st</sup> respondent herein, being plaintiff, filed suit O.S.No.224 of 2014 against the respondents seeking specific performance of agreement of sale. The suit was decreed on 30.06.2016. Pursuant to the decree, the decree holder filed E.P.No.39 of 2016. Sale deed was executed by the Court below on 06.02.2021.

3. After execution of sale deed, the Decree Holder filed E.P. No.102 of 2021 for delivery of property under Order XXI Rule 35 of CPC. At that point of time, petitioner filed claim petition vide G.R.No.706, dated 04.03.2022 under Order XXI Rule 58 CPC. The said application was returned on couple of occasions and the same was represented. Finally, by order dated 04.03.2022 the claim petition was returned with the following endorsement:

“1) The suit O.S.No.224 of 2012 was filed on 25.06.2012 and was disposed of after full trial on 30.06.2016 and the suit was decreed in favour of the plaintiff granting specific performance

of agreement of sale. No appeal was filed against the said judgment.

2) E.P.No.39 of 2016 was filed on 09.04.2021 by the petitioner/Decree Holder for execution of the decree passed in the suit for execution of the sale deed in favour of the D.Hr and the E.P was closed on 29.01.2021.

3) The Decree Holder/plaintiff also filed E.A.No.102 of 2021 on 09.04.2021 for attachment of the amount deposited by the Decree Holder towards the balance of sale consideration in respect of the property mentioned in the schedule into court and to hold an amount of Rs.59,848/- to the extent of the E.P amount for realization of the same as per the decree in the above suit.

4) The present claim petition is filed by the petitioner (third party) on 04.03.2022 after a long delay of ten years, The petitioner has not explained the reasons for the long delay of ten years in filing the claim petition.

Hence, the claim petition is returned.”

4. A perusal of the written endorsement dated 23.12.2022 by the Court below would disclose that the petitioner failed to disclose reasons for the long delay of ten years. In the affidavit, the petitioner explained his case and filed the claim petition. Without numbering the claim petition, returning the same by the Court below is unsustainable.

5. In view of the above, if the petition is otherwise in order and satisfies other conditions, the Court below shall number the claim petition and adjudicate the same on merits in accordance with law.

6. With the above direction, the Civil Revision Petition is disposed of. No order as to costs.

As a sequel, all the pending miscellaneous applications shall stand closed.

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**SUBBA REDDY SATTI, J**

Date : 23.01.2023

Note:

Furnish copy by 25.01.2023

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Date :23.01.2023  
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