



2024:DHC:8494



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 29.10.2024*+ **W.P.(C) 5528/2022 & CM Appl.16473/2022**

P. B. DAVID

.....Petitioner

Through: Ms. Sonika Gill and Ms. Swati
Lohan, Advs.

versus

THE ESTATE OFFICER & ORS.

.....Respondents

Through: Mr. Dev P. Bhardwaj, CGSC with
Mr. Ujjwal Chaudhary and Mr. Vishal
Sharma, Advs. for UOI.**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Petition has been filed on behalf of the Petitioner impugning the order dated 03.02.2022 passed by the learned Principal District & Sessions Judge, (HQs), Tis Hazari Courts, Delhi [hereinafter referred to as “the Impugned Order”] which was passed in an Appeal filed under Section 9 of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 [hereinafter referred to as “the Act”].

2. The Appeal was filed challenging the order dated 28.01.2020 passed by the learned Estate Officer and Assistant Director of Estates (Litigation), Directorate of Estates, Maulana Azad Road, Nirmat Bhavan, New Delhi, [hereinafter referred to as the “Appeal”] whereby an order *qua* subletting by the Petitioner and for recovery of damages to the tune of Rs. 26,29,890/- for the period from 30.04.2015 to 31.12.2018 was passed against the Petitioner.

3. It is the case of the Petitioner that the Appeal could not be filed within the period of limitation and was only filed on 03.06.2020 after a delay of



104 days in view of the fact that after the superannuation of the Petitioner, the Petitioner had shifted to his native place in Tamil Nadu and was involved in marriage of his younger daughter, which took place on 14.02.2020 followed by reception on 21.02.2020 at Bangalore. It is further contended that thereafter Covid-19 outbreak hit India and it was only on 03.06.2020 that he was able to file his Appeal.

4. Both parties have been briefly heard in the matter.

5. At the outset, it is necessary to set out the relevant dates in the matter. The order passed by the learned Estate Officer was passed on 28.01.2020 and the limitation for filing of the same expired on 09.02.2020. The Appeal was only filed before the learned Trial Court on 03.06.2020.

6. The Supreme Court in ***Re: Cognizance For Extension Of Limitation Suo Moto***¹ has held that the period from 15.03.2020 till 28.02.2022 shall also stand excluded from the period prescribed for institution of proceedings. The relevant extract is below:

“5.4 It is further clarified that *the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.*”

[Emphasis supplied]

6.1 Thus, for the period from 15.03.2020 onwards, if the benefit of this judgment is granted to the Petitioner, the delay would not be 104 days but would be approximately 35 days which is between the period from

¹ (2022) 3 SCC 117



10.02.2020 and 15.03.2020.

7. In ***Sheo Raj Singh (Deceased) through Legal Representatives and Others v. Union of India and Anr.***,² the Supreme Court has held that the substantive rights of parties should not get defeated at the threshold, due to technical considerations like those of delay. It further held that where there is a genuine explanation given for the delay and not a mere excuse, the delay should be condoned. The relevant extract is set out below:

“30. Considering the aforementioned decisions, there cannot be any quarrel that this Court has stepped in to ensure that substantive rights of private parties and the State are not defeated at the threshold simply due to technical considerations of delay. However, these decisions notwithstanding, we reiterate that condonation of delay being a discretionary power available to courts, exercise of discretion must necessarily depend upon the sufficiency of the cause shown and the degree of acceptability of the explanation, the length of delay being immaterial.

31. Sometimes, due to want of sufficient cause being shown or an acceptable explanation being proffered, delay of the shortest range may not be condoned whereas, in certain other cases, delay of long periods can be condoned if the explanation is satisfactory and acceptable. Of course, the courts must distinguish between an “explanation” and an “excuse”. An “explanation” is designed to give someone all of the facts and lay out the cause for something. It helps clarify the circumstances of a particular event and allows the person to point out that something that has happened is not his fault, if it is really not his fault. Care must, however, be taken to distinguish an “explanation” from an “excuse”. Although people tend to see “explanation” and “excuse” as the same thing and struggle to find out the difference between the two, there is a distinction which, though fine, is real.”

[Emphasis supplied]

8. It has further been held by the Supreme Court in ***State of Haryana v. Chandra Man & Ors***³, case that each day of delay does not require to be

² 2023 SCC OnLine SC 1278

³ (1996) 3 SCC 132



explained by a party seeking condonation of delay. The relevant extract is reproduced below:

“11. It is notorious and common knowledge that delay in more than 60 per cent of the cases filed in this Court — be it by private party or the State — are barred by limitation and this Court generally adopts liberal approach in condonation of delay finding somewhat sufficient cause to decide the appeal on merits. It is equally common knowledge that litigants including the State are accorded the same treatment and the law is administered in an even-handed manner. When the State is an applicant, praying for condonation of delay, it is common knowledge that on account of impersonal machinery and the inherited bureaucratic methodology imbued with the note-making, file-pushing, and passing-on-the-buck ethos, delay on the part of the State is less difficult to understand though more difficult to approve, but the State represents collective cause of the community. It is axiomatic that decisions are taken by officers/agencies proverbially at slow pace and encumbered process of pushing the files from table to table and keeping it on table for considerable time causing delay — intentional or otherwise — is a routine. Considerable delay of procedural red-tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression “sufficient cause” should, therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay. The factors which are peculiar to and characteristic of the functioning of the governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice-oriented process...”

[Emphasis supplied]

9. Undisputably, the Impugned Order did not examine the matter on merits and dismissed the Appeal on the ground of limitation alone. As explained above, a delay of approximately 35 days has been caused and the period after 15.03.2020 has been exempted by the Supreme Court in **Re: Cognizance** case for the purposes of limitation.

9.1 The explanation as has been given by the Petitioner in his Application seeking condonation of delay filed before the learned Trial Court is that the Order dated 28.01.2020 was received by the Applicant/Petitioner on



2024:DHC:8494



07.02.2020. After his superannuation he had shifted to his native place in Tamil Nadu to arrange for his daughter's marriage which took place in February, 2020. It was further stated therein that because retiral benefits were held back by the Respondents, the Petitioner was in an acute financial crises and shortly thereafter the Covid-19 outbreak took place from the end of February, 2020 onwards. Thus, it is contended that there was a delay in filing the Appeal.

10. In the opinion of this Court, these grounds would constitute sufficient cause for condoning the delay in filing the Appeal to challenge the Order dated 28.01.2020 passed by learned Estate Officer.

11. Accordingly, the Impugned Order dated 03.02.2022 is set aside. Since, the matter has not been examined on merits by this Court, the learned Trial Court is directed to conduct a *de novo* hearing in the matter. The learned Trial Court is also requested to dispose of this matter as expeditiously as possible.

12. The Petition and pending Application stands disposed of.

13. Parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

OCTOBER 29, 2024/r

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