

(2013) 07 NCDRC CK 0028

In the National Consumer Disputes Redressal Commission

Chhattisgarh State Cooperative Housing Federation

APPELLANT

Vs

Gopi Nath Maal

RESPONDENT

Date of Decision : 17-07-2013

Acts Referred:

Citation : 2013 0 NCDRC 530

Hon'ble Judges : K.S.CHAUDHARI J.

Final Decision : Petition Dismissed

Judgement

1. THIS revision petition has been filed by the petitioner/opposite party against the order dated 5.1.2012 passed by the Chhattisgarh State Consumer Disputes Redressal Commission, Pandri, Raipur (in short, "the State Commission ") in Appeal No. 228&250 of 2011 - Gopi Nath Vs. Adhikari & Anr. and Sundar Nagar Grih Nirman Sahakri Samiti Maryadit Vs. Gopinath Mall & Ors. by which, while allowing appeal, order of District Forum dismissing complaint was set aside and complaint was allowed.

2. BRIEF facts of the case are that complainant filed complaint before District Forum with a prayer for direction to OP/petitioner to provide him original title deeds and also pay compensation of Rs.50,000/- towards mental and physical harassment along with cost. OP/petitioner contested complaint and learned District Forum after hearing both the parties observed that there was no deficiency in service on the part of OP and disposed of the complaint with a direction that OP will return the original title deeds subject to depositing entire amount by the complainant/respondent. Appeal filed by the complainant was allowed by learned State Commission vide impugned order and directed OP to return title deeds to the complainant within two months, failing which, OP will be liable to pay compensation of Rs.500/- per month till delivery of original title deeds and awarded Rs.5,000/- for mental agony and Rs.1,000/- as cost of the proceedings against which, this revision petition along with application for condonation of delay has been filed. Heard learned Counsel for the petitioner at admission stage and perused record.

3. LEARNED Counsel for the petitioner submitted that there is delay of around 185 days in filing revision petition, which may be condoned, as due to renovation in the office of the Counsel for the petitioner, documents were misplaced and delay occurred in arranging another set of documents by the petitioner.

4. PARAGRAPHS 3, 4 and 5 of the application for condonation of delay run as under: "3. That the counsel for the petitioner has received the set of documents from the petitioner but due to the renovation in his office the said set of documents were misplaced and accordingly the petitioner arrange the new set of documents for which the time spent to do the said exercised. 4. That as per the limitation provision for filing revision petition before this Hon "ble Commission is of 90 days, therefore, the limitation ends for filing the present revision petition by 5.4.2012 and from 5.4.2012 till filling of present petition is a delay of around 180 days. 5. That in the circumstance a delay of 180 days has occurred in filing the present revision petition which neither intentional nor deliberate but has happened on the account of circumstances beyond the control of the petitioner ".

In aforesaid paragraphs, the petitioner has not revealed, when the documents were received by the Counsel and name of the Counsel has also not been given. Even this fact has also not been mentioned that when the petitioner came to know that documents were not found in the office of petitioner "s counsel due to renovation in the office and when petitioner applied for new set of documents and when documents were ready for filing revision petition. In the absence of any explanation and affidavit of the concerned Counsel in whose office documents were misplaced, delay of 185 days in filing revision petition cannot be condoned.

5. AS there is inordinate delay of 185 days, this delay cannot be condoned in the light of the following judgment passed by the Hon "ble Apex Court.

6. IN R.B. Ramlingam Vs. R.B. Bhavaneshwari 2009 (2) Scale 108, it has been observed: "We hold that in each and every case the Court has to examine whether delay in filing the special appeal leave petitions stands properly explained. This is the basic test which needs to be applied. The true guide is whether the petitioner has acted with reasonable diligence in the prosecution of his appeal/petition. "

In Ram Lal and Ors. Vs. RewaCoalfields Ltd., AIR 1962 Supreme Court 361, it has been observed; "It is, however, necessary to emphasize that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a discretionary jurisdiction vested in the Court by S.5. If sufficient cause is not proved nothing further has to be done; the application for condonation has to be dismissed on that ground alone. If sufficient cause is shown then the Court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bona fides may fall for consideration;

but the scope of the enquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the Court may regard as relevant. "

7. HON "ble Supreme Court after exhaustively considering the case law on the aspect of condonation of delay observed in *Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation* reported in (2010) 5 SCC 459 as under; "We have considered the respective submissions. The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time. "

8. HON "ble Apex Court in (2012) 3 SCC 563 - *Post Master General and Ors. Vs. Living Media India Ltd. and Anr.* has not condoned delay in filing appeal even by Government department and further observed that condonation of delay is an exception and should not be used as an anticipated benefit for the Government departments. Hon "ble Apex Court in 2012 (2) CPC 3 (SC) - *Anshul Aggarwal Vs. New Okhla Industrial Development Authority* observed as under: "It is also apposite to observe that while deciding an application filed in such cases for condonation of delay, the Court has to keep in mind that the special period of limitation has been prescribed under the Consumer Protection Act, 1986, for filing appeals and revisions in Consumer matters and the object of expeditious adjudication of the Consumer disputes will get defeated, if this Court was to entertain highly belated petitions filed against the orders of the Consumer Forums".

Thus, it becomes clear that there is no reasonable explanation at all for condonation of inordinate delay of 185 days. As Revision petition is barred by time, liable to be dismissed on the ground of delay alone.

9. CONSEQUENTLY , revision petition being time barred is dismissed at admission stage with no order as to costs.