
(2014) 10 DEL CK 0270

In the Delhi High Court

Case No : C.M. (M) Nos. 2853-2857 of 2005

R.J. Mistry Sons and Co. and Others

APPELLANT

Vs

Himani Gupta and Others

RESPONDENT

Date of Decision : 14-10-2014

Acts Referred:

Constitution of India, 1950 — Article 227 — Delhi Rent Control Act, 1958 - Section 25, 38

Citation : (2015) 218 DLT 254

Hon'ble Judges : Valmiki J. Mehta, J.

Bench : Single Bench

Advocate : Ashok Chhabra, Advocate, for the Appellant

Final Decision : Allowed

Judgement

Valmiki J. Mehta, J.?This petition under Article 227 of the Constitution of India impugns the order of the First Appellate Court/Rent Control Tribunal dated 7.9.2005 by which the Rent Control Tribunal has refused to condone the delay of just 13 days in filing of the first appeal under Section 38 of the Delhi Rent Control Act, 1958 (hereinafter referred to as "the Act"). The first appeal was filed on 19.4.2005 against the judgment of the Additional Rent Controller dated 28.2.2005 dismissing the objections filed by the petitioners under Section 25 of the Act. Limitation period for filing of the first appeal is 30 days to which the period taken in obtaining a certified copy has to be added.

2. I have really failed to understand as to how the First Appellate Court has refused to condone the delay of just 13 days because even as per the judgment of the Supreme Court in the case of N. Balakrishnan Vs. M. Krishnamurthy, , relied upon by the First Appellate Court, the Supreme Court has held that ordinarily once there is delay, there is some sort of negligence inbuilt in such delays, but unless the delays are affected by mala fides or ulterior purposes, and especially if the same is not long, the delay should be condoned. The Supreme Court in N. Balakrishnan's case (supra) has also specifically observed that a

person does not get any benefit by filing of an appeal with delay.

3. Considering that the delay was just 13 days in filing of the appeal, there was no reason for minor delay of just 13 days ought not to have been condoned and the first appeal be not heard on merits.

4. In view of the petition is allowed and the impugned order dated 7.9.2005 is set aside and the delay of just 13 days in filing of the first appeal is condoned. The concerned Rent Control Tribunal will now hear and dispose of the appeal on merits in accordance with law. Trial Court record be sent back.