

(2016) 10 NCDRC CK 0040

In the National Consumer Disputes Redressal Commission

Case No : 493 of 2016

SHIKSHAK SAHAKARI BANK THROUGH ITS BRANCH
MANAGER, HAVING ITS BRANCH AT ITWARI PUSHPAK PLAZA

APPELLANT

Vs

SUYOG S/O RAM BHAU GHARPANDE

RESPONDENT

Date of Decision : 20-10-2016

Acts Referred:

Citation : (2016) 10 NCDRC CK 0040

Hon'ble Judges : Ajit Bharihoke, S.M. Kantikar

Advocate : Jayshree Satpute

Final Decision : Petition Dismissed

Judgement

1. This revision is directed against the order of the Maharashtra State Consumer Disputes Redressal Commission (in short, "the State Commission") dated 8.9.2015 in first appeal No.A/10/59.

2. Facts relevant for the disposal of the revision petition are that the consumer complaint preferred by the respondent was allowed against the petitioner by the concerned District Forum. The petitioner bank was directed to pay a sum of Rs.60,000/- with 9% interest thereon to the respondent/complainant w.e.f. 29.5.2009 till realization of the amount. Besides compensation of Rs.10,000/- qua mental and physical harassment as also litigation of Rs.3,000/- were awarded.

3. The State Commission, Maharashtra, in appeal, reduced the compensation amount from Rs.10,000/- to Rs.1,000/-. The petitioner/opposite party not being satisfied with the order has preferred the instant revision petition.

4. The revision petition, however, has been filed after the expiry of period of limitation with a delay of 102 days, however, as per the computation done by the petitioner/opposite party. As per the calculation done by the Registry, the delay is of 38 days. The petitioner therefore, has moved an application for condonation of delay.

5. Learned counsel for the petitioner has submitted that the delay in filing of revision petition is unintentional and the delay has actually occurred because of the bureaucratic procedure of the bank for seeking permission to file the revision petition against the impugned order.

6. We are not satisfied with the explanation. Law relating to condonation of delay is well settled. Hon''ble Supreme Court in Post Master General and others vs. Living Media India Ltd. and another (2012) 3 Supreme Court Cases 563 has held: "24. After referring various earlier decisions, taking very lenient view in condoning the delay, particularly, on the part of the Government and Government Undertaking, this Court observed as under ;

" 29. It needs no restatement at our hands that the object for fixing time-limit for litigation is based on public policy fixing a lifespan for legal remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. Salmond in his Jurisprudence states that the laws come to the assistance of the vigilant and not of the sleepy.

30. Public interest undoubtedly is a paramount consideration in exercising the courts'' discretion wherever conferred upon it by the relevant statutes. Pursuing stale claims and multiplicity of proceedings in no manner subserves public interest. Prompt and timely payment of compensation to the landlosers facilitating their rehabilitation /resettlement is equally an integral part of public policy. Public interest demands that the State or the beneficiary of acquisition, as the case may be, should not be allowed to indulge in any act to unsettle the settled legal rights accrued in law by resorting to avoidable litigation unless the claimants are guilty of deriving benefit to which they are otherwise not entitled, in any fraudulent manner. One should not forget the basic fact that what is acquired is not the land but the livelihood of the landlosers. These public interest parameters ought to be kept in mind by the courts while exercising the discretion dealing with the application filed under Section 5 of the Limitation Act. Dragging the landlosers to courts of law years after the termination of legal proceedings would not serve any public interest. Settled rights cannot be lightly interfered with by condoning inordinate delay without there being any proper explanation of such delay on the ground of involvement of public revenue. It serves no public interest."

The Court further observed:

"27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because

the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/ years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay.

31 . In view of our conclusion on Issue (a), there is no need to go into the merits of Issues (b) and (c). The question of law raised is left open to be decided in an appropriate case.

32. In the light of the above discussion, the appeals fail and are dismissed on the ground of delay. No order as to costs."

In Ram Lal and Ors. Vs. Rewa Coalfields Ltd. AIR 1962 Supreme Court 361 , it has been observed as under: -

"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".

In R.B. Ramlingam Vs. R.B. Bhavaneshwari, 2009 (2) Scale 108 Apex Court has observed as follows:

"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.

Hon'ble Supreme Court in Anshul Aggarwal vs. New Okhla Industrial Development Authority, IV (2011) CPJ 63 (SC) 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 foras."

7. The explanation given by the petitioner for delay in filing of revision petition, in view of the settled position in law discussed above, is not satisfactory. It is pertinent to note that the respondent had filed the consumer complaint in the year 2009. However, till date the consumer has not received the fruits of the order of the Fora below because the petitioner has unnecessarily dragged the matter till the highest Forum i.e. National Consumer Disputes Redressal Commission. If the delay is condoned at such a late stage, it would result in further harassment and inconvenience to the complainant. Therefore, we do not find any justifiable reason for condoning the delay. Application for condonation of delay is dismissed. As a consequence, revision petition is also dismissed as barred by limitation.