

GAHC040002852022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : IA(C)/44/2022

M/s NBC Enterprises
having its Office at C Sector, Naharlagun and also at Khonsa, represented by its
Proprietor Shri Neelam Tago,
S/o Shri Neelam Taring, Resident of C Sector, Naharlagun, Papumpare District,
Arunachal Pradesh

VERSUS

THE STATE OF AP and 7 Ors.
Represented through the Chief Secretary, Govt. of Arunachal Pradesh, Itanagar
2:The Secretary
Age: 0
Occupation :

3:The Director
Age: 0
Occupation :

4:The Deputy Commissioner
Age: 0
Occupation :

5:The District Food and Civil Supply Officer
Age: 0
Occupation :

6:The Food Corporation of India
Age: 0
Occupation :

7:The District Manager
Age: 0
Occupation :

8:The Senior Regional Manager
Age: 0
Occupation

Advocate for the Petitioner : Ninnong Ratan

Advocate for the Respondent : GA (AP)

**BEFORE
HONBLE MR. JUSTICE BUDI HABUNG**

ORDER

Date : 24-06-2024

Heard Mr. D. Panging, learned counsel for the applicant. Also heard Mr. B. K. Singh, learned Standing Counsel, FCI (respondent nos. 6, 7 and 8) and Ms. P. Pangu, learned Government Advocate for respondent nos. 1 to 5.

2. This is an application under section 5 of the Limitation Act, 1963 praying for condonation of delay of 4920 days in filing the connected Civil Revision Petition against the judgment and order dated 27.05.2008 passed by the learned Additional District and Sessions Judge (Fast Track Court), Namsai in Money suit No. 01/2007.

3. The case of the applicant is that by judgment and order dated 27.05.2008 passed by the learned Court of the Addl. District & Sessions Judge (Fast Track

Court), the Money suit being Khonsa Money Suit No. 01/2007 filed by the plaintiff for payment of Rs. 4,69,36,879/- has been dismissed. Being aggrieved, the applicant filed review application against the said order dated 27.05.2008 along with the condonation petition before the said learned Additional District and Sessions Judge (Fast Track Court), Namsai. However, the said review application along with the condonation application was also dismissed on 01.12.2009. Thereafter, the applicant had filed civil revision petition before this Court being CRP/29/2009 and CRP/30/2009, assailing the dismissal of the review petition. The said CRP/29/2009 and CRP/30/2009 were disposed of on 07.02.2022 whereby the impugned order dated 01.12.2009 were has been set aside and the petitioner was given liberty to seek appropriate remedy before the appropriate forum against the judgment dated 27.05.2008 passed by the learned Additional District and Sessions Judge (Fast Track Court), Namsai in Money Suit no. 01/2007. And thereafter, the petitioner has immediately filed this interlocutory application along with the connected civil revision petition. However, in the meantime, there has been delay of 4920 days in filing the connected civil revision petition. The ground for not filing the connected civil revision petition within stipulated time has been explained in para 5, 6, 7, 8, 9 and 10 of this application.

4. While referring to the contention made in the petitioner, the learned counsel for applicant submitted that the impugned order was passed by the learned Additional District and Sessions Judge (Fast Track Court), Namsai on 27.05.2008. After that, the review petition filed by the petitioner was rejected on 01.12.2009. Subsequently, the applicant filed civil revision petition before this Court in the month of December, 2009 itself and this Court by its judgment and order dated 07.02.2022 has set aside and quashed the order dated 01.12.2009

passed by the learned Additional District and Sessions Judge (Fast Track Court), Namsai.

5. However, the impugned order dated 27.05.2008 passed by the learned Additional District and Sessions Judge (Fast Track Court), Namsai has not been dealt with by this Court, however, by the same order dated 07.02.2022, this Court has directed the petitioner/applicant to seek appropriate remedy before the appropriate forum against the impugned order dated 27.05.2008 and hence, the applicant has approach this court by filing this application. It is further submitted that in the process it took around 4920 days and as such, there was no deliberate delay on the part of the applicant, as the applicant has tried hard to do everything as fast as possible.

6. It is further submitted that there was no any inordinate delay or deliberate fault on the part of the applicant for causing the delay of 4920 days and the delay, if any; was beyond the control of the applicant and if the delay is not condoned and the connected civil revision petition is not admitted, great injustice would be caused to the applicant and as such, prays for condonation of delay of 4920 days in filing the connected civil revision petition.

7. The respondent nos. 6, 7 and 8 has filed objection to the condonation of delay and the ground for their objection has been stated in para 6, 7, 8, 9 and 10 of the objection petition and also in para 5 to 12 of the rejoinder, wherein the respondent has vehemently objected the condonation of delay in filing the connected civil revision petition.

8. The learned Government Advocate for the respondent nos. 1 to 5 did not file any objection; however, the learned Government Advocate representing the

respondent nos. 1 to 5 submits that their submission shall be based on the objection filed by the respondent nos. 6, 7 and 8.

9. It is submitted that although the respondent has filed an objection to the condonation of petition, however, the learned counsel for the State respondents and the respondent nos. 6, 7 and 8 fairly submitted at bar that the respondents shall have no objection for condonation of the delay of 4920 days in filing the connected civil revision petition if the applicant/revision petitioner does not insist for and or assured that they shall not claim any interest from the date of passing of the impugned order dated 27.05.2008 to till the date of passing this order.

10. The above proposal made by the learned counsel for the respondents has been conceded and agreed to by the learned counsel for the applicant/revision petitioner and stated that, if the delay of 4920 days in preferring the connected civil revision petition is condoned, they will not insist or claim any interest on the principal amount from the date as stated above.

11. In view of the above, this Court is satisfied that the applicant has been able to satisfy that he had a sufficient cause for not preferring the connected civil revision petition within the stipulated time. Moreover, the respondents has no objection if the delay is condoned with the condition that the applicant/revision petitioner does not claim any interest for the period from the date of passing the impugned order dated 27.05.2008 to till the date of passing this order to which the applicant has agreed not to claim interest for the said period.

12. Accordingly, the delay of 4920 days in filing the connected civil revision

petition is hereby condoned.

13. This IA stands allowed and disposed of in above terms.

JUDGE

Comparing Assistant