

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 665 OF 2016

MR. PUNDALIK RAGHOBASHIRGAONKAR. ... Petitioner
Versus
MR. RAGHVENDRA P. BHAT. ... Respondent

Shri Prasheen Lotlikar, Advocate for the petitioner.

Shri C. A. Coutinho, Advocate for the respondent.

Coram:- F. M. REIS, J.

Date:- 6th December, 2016

P.C.

Heard Shri P. Lotlikar, learned Counsel for the petitioner and
Shri C. A. Coutinho, learned Counsel for the respondent.

2. The challenge in the above petition is to an order passed by the learned District Judge, South Goa, Margao dated 27.11.2015 whereby an application filed by the petitioner for condonation of delay of 897 days in filing a Revision Application came to be rejected.

3. Shri P. S. Lotlikar, learned Counsel appearing for the petitioner submits that the petitioner is a senior citizen more than 81 years old having a heart ailment and other sickness which confined him to the household and, as such, he was prevented from approaching his lawyer to take steps to challenge an order

passed by the Rent Controller dated 21.12.2012 whereby an application under Section 32(4) of the Rent Control Act ("the Act" for short) filed by the petitioner came to be dismissed. The learned Counsel further points out that as the petitioner was unable to contact his lawyer for a continuous period of more than 2 years, the revision remained to be filed and as such, the learned Judge was not justified to refuse to condone the delay. The learned Counsel further points out that the learned Judge while passing the impugned order has erroneously taken note of the fact that the petitioner had personally remained present on three occasions before the Rent Controller and sought adjournment in the proceeding which are in progress. The learned Counsel further submits that an application under Section 32(4) of the Act was filed on the ground that the respondent tenant had defaulted to deposit the rent for a period of 10 months. The learned Counsel further submits that the petitioner has a good case on merit and grave injustice would occasion to the petitioner in case the application for condonation of delay stands refused. The learned Counsel thereafter has taken me through the impugned order as well as the order of the Rent Controller to point out that the learned Judge has erroneously appreciated the material on record to refuse to condone the delay and ultimately confirmed the order of the Rent Controller under Section 32(4) of the Act on erroneous consideration. The learned Counsel as such submits that the impugned order be accordingly quashed and set

aside.

4. On the other hand, the learned Counsel appearing for the respondent has pointed out that the application under Section 32(4) of the Act was dismissed on the ground that the respondent had produced challans clearly disclosing that all the alleged defaults referred to in the application filed by the petitioner were in fact paid much in advance in January, 2012. The learned Counsel further points out that when such order was passed the learned Advocate appearing for the petitioner was very much present and in fact accepted the position that the rent was already deposited. The learned counsel further submits that though it was contended by the petitioner that he was sick on account of an ailment nevertheless the respondent has brought material on record to show that the petitioner even remained personally present in the proceedings before the Rent Controller after the order dismissing the appeal under Section 32(4) of the Act. The learned Counsel thereafter has taken me through the impugned order to point out that the learned Judge has rightly dismissed the application for condonation of delay.

5. I have duly considered the rival contentions and with the assistance of the learned counsel I have also gone through the records.

6. An order dismissing an application for condonation of delay is within the discretion of the learned Revisional Court. In the present case, the learned Judge whilst examining the application for condonation of delay found that there were some false statements by the applicant to the effect that the petitioner was sick due to an ailment for 867 days which prevented him from approaching his lawyer to file the revision. The statements were found to be incorrect based on the record before the Rent Controller which disclosed that the petitioner was personally present on 3 different occasions when the proceedings were in progress. No doubt, the learned Counsel appearing for the petitioner states that the petitioner had justified his presence on the said date in the Writ Petition, nevertheless it was incumbent upon the petitioner to disclose the true facts and explain the inordinate delay of 867 days in filing the revision application. In such circumstances as there is unexplained inordinate delay in filing the revision application, I find that there is no case made out by the petitioner to interfere in the discretionary order passed by the learned Revisional Authority in dismissing the application for condonation of delay. Apart from that it is not disputed that during this period of 867 days, proceedings before the Rent Controller was in progress and all steps in such proceedings were taken at the instance of the petitioner through his advocate who represented the petitioner in such proceedings.

7. In such circumstances, I find that it is very difficult to believe the contentions of the petitioner that for such inordinate delay the petitioner could not contact his advocate to take steps to file a revision application. In such circumstances, I find no merits in the above Writ Petition which stands accordingly dismissed.

F. M. REIS, J.

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