

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.1197 OF 2017

ORDER:

This civil revision petition is filed under Section 22 of A.P. Building (Lease, Rent & Eviction) Control Act, 1960 (for short 'Act'), challenging the order in I.A.No.551 of 2015 in R.A.No.109 of 2015 dated 10.11.2016 passed by the Chief Judge, City Small Causes Court, Hyderabad, condoning delay of 1925 days in filing of an appeal against the dismissal order in R.C.No.466 of 2006 dated 30.12.2009.

For the sake of convenience, the parties are referred as arrayed in I.A.No.551 of 2015 in R.A.No.109 of 2015.

The only ground mentioned for the abnormal delay in filing an appeal by the first petitioner is that, the mother of the first petitioner was suffering from serious health disorder and she was admitted in Bibi General Hospital & Cancer Centre. As the second respondent is staying at United States of America to prosecute her studies, the first petitioner being her only son to take care of her health and ailment, he could not file the appeal within the time stipulated under Section 20 of the Act.

The respondent-Society filed counter affidavit, denying material allegations, mainly contending that the delay of 1925 days is inordinate and the cause invented by the petitioners is not genuine and in the absence of sufficient cause, the Court cannot

condone such abnormal delay and prayed for dismissal of the petition.

The Appellate Court accepted the contention of the petitioners, based on the documents produced before the Court, more particularly, four medical certificates issued by the Civil Assistant Surgeon, R.M.O. Osmania General Hospital and a medical certificate issued by Bibi General Hospital & Cancer Centre dated 26.03.2015, certifying that mother of the first petitioner was suffering from Carcinoma of Upper Lip (cancer) and thereby the first petitioner was taking care of her medical needs for a period of nearly 1925 days.

The certificates issued by the Civil Assistant Surgeon, R.M.O. Osmania General Hospital, Hyderabad, disclosed that he examined the patient by name Nusrath Jahan Begum, aged 68 years and certified that her health condition was serious and she requires medical leave from 10.08.2009 to 10.08.2011, 11.08.2011 to 15.12.2012, 16.12.2012 to 05.06.2014 and 06.06.2014 to 27.01.2015.

In fact, Nusrath Jahan Begum was not an employee and question of granting medical leave on health grounds for the relevant periods mentioned in the certificates does not arise. Issuing such certificates itself indicates that the mother of the first petitioner was not examined by the Civil Assistant Surgeon, but issued certificate in a casual manner. The other certificate relied

on by the learned counsel for the petitioners is certificate issued by Bibi General Hospital & Cancer Centre on 26.03.2015.

Mother of the first petitioner was treated only for a period from 27.01.2015 to 26.03.2015, i.e. for a period of three months in Bibi General Hospital & Cancer Centre. But, curiously, the Civil Assistant Surgeon certified that her health condition was serious and recommended for medical leave from 10.08.2008 to 27.01.2015 conveniently and suggested to grant medical leave to a housewife. Therefore, the certificates are highly doubtful. Hence, the reason assigned by the first petitioner cannot be accepted to condone delay of 1925 days. Even otherwise, R.C.466 of 2006 was disposed on 30.12.2009. When the petitioner was able to attend the hospital, both at Osmania General Hospital and Bibi General Hospital & Cancer Centre, he could have spared few hours to contact his advocate and file an appeal. But, the alleged sufferance of ill-health by his mother for a period of nearly five years is not acceptable in the present set of circumstances and the cause shown by the first petitioner is not sufficient i.e cause beyond the control of the first petitioner, thereby such abnormal delay cannot be condoned by mere producing false medical certificates, though length of the delay is not a ground. Therefore, the order in I.A.No.551 of 2015 in R.A.No.109 of 2015 dated 10.11.2016 passed by the Chief Judge, City Small Causes Court, Hyderabad is erroneous for the simple reason that the Chief Judge did not look into the medical certificates issued by the Civil Assistant Surgeon,

R.M.O., Osmania General Hospital, Hyderabad and condoned the delay of 1925 days in a casual manner.

In the result, the civil revision petition is allowed, setting aside the order in I.A.No.551 of 2015 in R.A.No.109 of 2015 dated 10.11.2016 passed by the Chief Judge, City Small Causes Court, Hyderabad.

Consequently, miscellaneous applications pending if any, shall also stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:20.06.2017

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