

***IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

*** HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT JUSTICE T. RAJANI**

+CIVIL REVISION PETITION No.4039 of 2006

%Date: 08-08-2017

#Between:

1. A.P. Housing Board, rep. by its Housing Engineer, Vijayawada,
Vijayawada Circle, 30-1-10, (1st floor), Vijayawada, Krishna District.
2. Chief Engineer, A.P. Housing board, Gruhakalpa, M.g. Road, Hyderabad.

... Petitioners

And

G. Vijaya Bhaskar Rao, S/o. Laxmaiah,
Contractor, R/o. 4-7-11-A,
Osman Sahebpet, Nellore.

... Respondent

! Counsel for the Petitioner s : Mr. J. Prabhakar

^ Counsel for the Respondent : Mr. P. Hemachandra

<GIST:

> HEAD NOTE:

? Cases referred

HONOURABLE MR. JUSTICE V.RAMASUBRAMANIAN
And
HON'BLE SMT JUSTICE T. RAJANI

CIVIL REVISION PETITION No.4039 of 2006

ORDER: (Per VRS,J)

This revision petition arises out of the order passed by the Senior Civil Judge, City Civil Court, Hyderabad condoning the delay in filing the application for restoration of the Original petition filed under Arbitration Act, 1940.

2. Heard Mr. J. Prabhakar, learned counsel for the petitioners. The learned counsel for the respondent was absent on the previous occasion. Therefore, the matter was posted for orders today. Even today, learned counsel for the respondent is absent.

3. It is seen from the record that the respondent herein was entrusted with a contract by the A.P. Housing Board. Disputes arose between the petitioners and the respondent leading to the respondent filing an application in O.P.No.401 of 1992 on the file of the Senior Civil Judge, City Civil Court, Hyderabad for appointment of sole Arbitrator. It is relevant to note that the O.P. was filed under the 1940 Act, in the year 1992. The O.P. was dismissed for default on 12.03.2001.

4. In the year 2004 the respondent filed two applications one for restoration of the O.P to file, and another for condonation of delay of 988 days in filing the restoration petition. The condone delay petition was first numbered and the same was allowed by the trial Court by an order dated 20.04.2006. Aggrieved by the condonation of delay, the Housing Board has come up with the above revision petition.

5. The contract that was entrusted to the respondent by the petitioners was in late 1980s. The dispute between the parties arose in 1991 leading to filing of Original Petition for appointment of an Arbitrator in the year 1992. The OP was dismissed for non-prosecution in the year 2001 and the restoration petition was filed in the year 2004. By then a period of 12 years had elapsed. The revision

was admitted way-back in 2006. Today a period of 25 years has passed from the date of filing of the O.P for appointment of Arbitrator.

6. In the above circumstances, even if the revision petition is dismissed, the matter has to go back to the trial Court for consideration of the restoration application. Assuming that the restoration application is allowed, the Court has to appoint an Arbitrator and the adjudication has to start afresh after 30 years of the dispute. Therefore, we do not think that any useful purpose will be served in allowing the restoration of the Arbitration Application.

7. More over, in the affidavit in support of the condone delay application, the respondent has not adduced proper reasons. The respondent has stated in his affidavit that his counsel failed to inform him of the posting of the case for hearing and that when he sent a letter to his counsel, it returned. Thereafter, the petitioner claims to have come to know about the death of his previous counsel.

8. The reasons stated are hardly sufficient for condonation of huge delay of 988 days.

9. The project in respect of which the Housing board entrusted the contract to the respondent was completed three decades ago. The cost of the project has also been sealed. The Housing board, even if Arbitration takes place, cannot effectively participate now and defend the proceedings. Therefore, the Civil Revision Petition is allowed setting aside the order of the court below. The application for condonation of delay in filing the restoration petition, is dismissed.

10. As a sequel, miscellaneous petitions pending in this revision petition, if any, shall stand closed. There shall be no order as to costs.

V.RAMASUBRAMANIAN, J.

T. RAJANI, J.

Js.
8th August, 2017.

**HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT JUSTICE T. RAJANI**

**C.R.P.No.4039 of 2006
(Per VRS,J)**



8th August, 2017

Js.