

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Civil Revision Petition No. 1732 of 2012

ORDER:

This revision under Section 115 of the Code of Civil Procedure is filed by the D.Hrs. – petitioners against the order of dismissal of E.P.No. 3 of 2009 in R.C.C. No.1 of 1993, dated 22.3.2011.

2. The petitioners obtained the order under Section 10 of A.P. Buildings (Lease, Rent & Eviction) Control Act and filed E.P. under Order 21, Rule 22 C.P.C. and Rule 23 of A.P. Buildings (Lease, Rent & Eviction) Control Act. The only ground for dismissal is that the E.P. was filed after six months from the date of the order.

3. The executing Court dismissed the petition on the sole ground that it was barred by limitation. Aggrieved by the order, the present revision is filed contending that the executing Court did not consider the explanation submitted by petitioners in filing E.P. and erroneously recorded a finding that it is barred by limitation.

4. During hearing Sri T.V.S.Prabhakar Rao, learned counsel for petitioners, reiterated the contention.

5. Admittedly, the eviction order was obtained on 29.7.2002, whereas the execution petition was filed in the month of October, 2009.

6. According to Rule 23 of Rules framed under A.P. Buildings (Lease, Rent & Eviction) Control Act, every application for the execution of order passed under this Act shall be in writing, signed and certified by the decree holder and filed before the Controller within six months from the date of the order accompanied by a certified copy of the order concerned together with the necessary process fee : Provided that an application may be admitted after the specified period, if the application satisfies the Controller that he has sufficient cause for not preferring the application within such period.

7. Thus, the limitation is only six months from the date of obtaining an order for eviction under Rule 23 (1) of Rules framed under the Act, but the Court can entertain the application after the specified period, if sufficient cause is shown for not preferring the application within such period. But, here the petitioner did not file any application explaining the sufficient cause, which prevented him from filing the application within the specified period, therefore, in the absence of explanation for delay of six years after obtaining an order, the Court cannot extend the time. Therefore, the executing Court has rightly dismissed the petition strictly adhering to the Rule 23 of Rules framed under A.P. Buildings (Lease, Rent & Eviction) Control Act. However, this order will not preclude the petitioners from prosecuting their legal proceedings for eviction, if any.

8. In the result, the Civil Revision Petition is dismissed with the above observation. No order as to costs. Consequently,

miscellaneous petitions pending, if any, in the Civil Revision Petition shall stand closed.

M. SATYANARAYANA MURTHY, J

Date:12-06-2017
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