

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1348 of 2019**

- Hariprasad Prajapati S/o Late Shri Bajrang Lal Prajapati Aged About 54 Years R/o Krishna Nagar, Santoshi Nagar, Raipur, Tehsil Raipur, District- Raipur, Chhattisgarh.....(Non-Applicant)

---- Petitioner**Versus**

1. Sujit Haldhar S/o Shri Vimalchand Haldhar R/o Chhattisgarh Nagar, Santoshi Nagar, Near Ring Road Chowk, Raipur, Tehsil Raipur, District- Raipur, Chhattisgarh
2. State Of Chhattisgarh Through Rent Controlling Authority Raipur, District- Raipur, Chhattisgarh

---- Respondent

For Petitioner	Mr. Surfuraj Khan, Advocate
For Respondent No.1	Mr. Akash Kundu, Advocate
For Respondent No.2	Mr. Faiz Kazi, Panel Lawyer

DB.: **Hon'ble Mr. Prashant Kumar Mishra, Ag. C.J.**
Hon'ble Mr. Parth Prateem Sahu, J.

Order On Board By
Hon'ble Mr. Prashant Kumar Mishra, Ag. CJ

2/5/2019

1. Heard.
2. The tenant has preferred this writ petition challenging the order passed by the Rent Control Tribunal dismissing his appeal consequent upon refusal of the Tribunal to condone the delay in filing the appeal.
3. The Rent Controller passed the final order of eviction on

7.6.2018. The appeal is required to be preferred within 30 days as provided under Rule 10 of the Chhattisgarh Rent Control Adaptation Rules, 2016.

4. The appeal was filed by the petitioner on 11.9.2018 i.e. after about 94 days from the date of order.
5. The petitioner stated before the Appellate Tribunal that his lawyer pleaded no instructions before the Rent Controller on 7.6.2018 without informing the petitioner that he is required to engage another lawyer. It was, thus, pleaded that the petitioner should not be made to suffer because of the mistake of the lawyer.
6. It is the settled law that a litigant should not be punished for the mistake of the lawyer.
7. If there was some dispute between the petitioner and his lawyer, it was the duty of the lawyer to have informed the petitioner that he is withdrawing his Vakalatnama and the petitioner should appoint a new lawyer.
8. Without entering into the dispute as to whether that would amount to negligence of lawyer, suffice it would be to conclude that as a matter of fact, the petitioner had not appeared before the Rent Controller on 7.6.2018 and was thus, not aware of the fact that the final order was passed on the said date.
9. Ordinarily, the prayer for condonation of delay is allowed when the delay is not enormous. The Courts and Tribunals should

make all possible endeavour to decide the *lis* on merits rather than dismissing the same on technical grounds.

10. Therefore, considering the entire facts situation of the case, we are of the considered view that the Tribunal should have allowed the petitioner's prayer for condonation of delay.

11. We accordingly do so and quash the impugned order subject to payment of cost of Rs.10,000/- payable to respondent No.1. The matter is remitted back to the Tribunal to decide the appeal on merits, at the earliest, preferably within a period of one month from 13.5.2019. On the said date i.e. 13.5.2019, both the parties shall appear before the Tribunal.

12. It is also directed that the petitioner shall be heard on merits only after payment of cost of Rs.10,000/- by the petitioner to respondent No.1 on or before 13.5.2019.

13. The writ petition is allowed to the above extent.

Sd/-

(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

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