

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.865 of 2019

ORDER :

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.31.12.2018 passed in I.A.No.637 of 2018 in R.A. (S.R.) No.2299 of 2018 on the file of the Chief Judge, City Small Causes Court, Hyderabad refusing to condone the delay of (241) days in preferring the said appeal challenging the order 08.11.2017 passed in R.C.No.278 of 2008 on the file of II Additional Rent Controller, Hyderabad.

2. In the affidavit filed in support of the said application, it is the contention of petitioner that during the pendency of proceedings before the Rent Controller, an unregistered sale deed was impounded and sent to the District Collector for impounding; that the District Collector did not return the document to the Rent Controller disabling the petitioners from contesting the eviction case filed against them on merits; and thereafter, final orders of eviction were passed on 08.11.2017 by the Rent Controller directing the eviction.

3. Counter-affidavit was filed by respondents opposing the said application and contending that the appeal itself was filed with a *mala fide* intention to harass the respondent; and sufficient grounds were not shown for condoning the said period of delay.

4. By order dt.31.12.2018, the Court below rejected the said application. It held that the abnormal period of delay of (241) days

cannot be condoned in a mechanical way in the absence of sufficient cause shown by petitioners.

5. Assailing the same, the present Civil Revision Petition is filed.

6. Though the counsel for petitioners sought to contend that grave and irreparable loss would be caused to petitioners if the delay of (241) days in preferring the appeal is not condoned and the order passed by the Court below is not set aside, the question to be gone into is “*whether there is sufficient cause for condoning the said period of delay*”.

7. Assuming that there is truth in the contention of petitioners that the unregistered agreement of sale, on which they placed reliance, is necessary for them to rely for their defence and that they were awaiting the return of same after impounding and this caused the delay in filing the appeal, nothing prevented the petitioners from filing the appeal within time and then pursuing with the District Collector, Hyderabad District for return of the document after impounding, either through the Appellate Authority under the Act or by way of separate proceedings under Article 226 of the Constitution of India.

8. The petitioners cannot wait till the period of limitation for filing the appeal is over and consume a further period of (241) days and then prefer an appeal, and blame the Rent Controller for not getting the impounded document from the District Collector, Hyderabad.

9. Therefore, it cannot be said that sufficient cause has been shown by petitioners for not preferring the Rent Appeal within the time prescribed by the Act.

10. Accordingly, the Civil Revision Petition fails and it is dismissed at the stage of admission.

11. However, the petitioners are granted time up to 08.07.2019 to handover vacant physical possession of the R.C. Schedule property subject to petitioners filing an undertaking before this Court within one (01) week from the date of receipt of copy of this order that they would vacate the R.C. Schedule premises by the said date, and that they would also pay all the arrears of rent from the date of filing of the R.C. (after deducting the amounts, if any, already paid or deposited) to the respondent within four (04) weeks from the date of receipt of copy of this order.

12. In default in filing such undertaking within one (01) week from the date of receipt of copy of the order or making deposit as directed, the petitioners shall be liable to be evicted forthwith.

13. No order as to costs.

14. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 08.04.2019

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