

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.1609 of 2019

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India, by the petitioners, aggrieved by the order dated 03.07.2019 passed in I.A.No.324 of 2019 in R.A (SR) No.1568 of 2019 by the learned Chief Judge, City Small Causes Court, at Hyderabad, wherein the application filed by the petitioners/tenants to condone the delay of 31 days caused in preferring the Appeal against the eviction orders passed in RC No.103 of 2016 dated 10.04.2019 on the file of III Additional Rent Controller, City Small Causes Court, Hyderabad (for short "Rent Controller"), was dismissed.

2) Heard Ms.Sunil B. Ganu, learned counsel for the revision petitioners and Mr.R.A.Achuthanand, learned counsel for the respondents and perused the record.

3) Learned counsel for the revision petitioners/tenants would contend that though the eviction order was passed on 10.04.2019, their counsel on record did not inform the same to them. It is only when the revision petitioners received the copy of caveat petition filed by the respondents herein on 04.06.2019, they came to know about the order of eviction. Then immediately, the revision petitioners applied for certified copies of eviction order and filed the appeal and in that process, the delay of 31 days was caused. There is substantial reason to condone the delay but the Court below erroneously dismissed the impugned application and ultimately prayed to allow the revision petition as prayed for.

4) Learned counsel for the respondents/landlords would vehemently contend that there is no justifiable cause to condone the delay of 31 days in preferring the appeal. Furthermore, the 2nd revision petitioner was present on the date of pronouncement of eviction order by the Rent Controller. No affidavit of the learned counsel on record before the Rent Controller was filed. There is no infirmity or illegality in the impugned order under challenge and ultimately prayed to dismiss the revision petition.

5) In view of the submissions made by both sides, the point for determination is:

“Whether the civil revision petition can be allowed as prayed for?”

6) **POINT:** In the given circumstances, it is appropriate to state that no affidavit of the learned counsel for the revision petitioners before the Rent Controller, is required to be filed, when the 2nd revision petitioner had given the affidavit narrating the reasons and also specifically stated that the learned counsel on record did not inform about the order of eviction and on filing of the caveat by the respondents herein only, the revision petitioners got to know about the orders of eviction. There is no dispute with regard to filing of the caveat by the respondents herein and service of notice on the revision petitioners. There is also record to show that having come to know about the order of eviction, the revision petitioners applied for certified copies of eviction orders and after obtaining the same, they promptly filed the appeal and in that process, the delay of 31 days was caused. The contention of the respondents/landlords that the 2nd revision petitioner was present on the date of pronouncement of the order by the Rent Controller, is without any basis and does not

merit consideration. Therefore, the impugned order passed by the Court below, is liable to be set aside.

7) In the result, this Civil Revision Petition is allowed and the impugned order dated 03.07.2019 passed in I.A.No.324 of 2019 in R.A (SR) No.1568 of 2019 by the learned Chief Judge, City Small Causes Court, at Hyderabad, is set aside. Consequently, the said I.A.No.324 of 2019 is allowed. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

Date: 09.09.2019

scs

Dr. SHAMEEM AKTHER, J

