



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 303 OF 2017

Abhaykumar Shrirmandhar Patil.

...Petitioner.

Versus

Late Rawan Gunda Nalavade

Since deceased Thr. LRs. and Others.

...Respondents.

Mr. Sandeep S. Koregave for the Petitioner.

Mr. Pradeep Gole for the Respondents

Coram : Sharmila U. Deshmukh, J.

Date : August 12, 2024.

P. C. :

1. By this petition, challenge is to the order dated 30th March 2016 passed by the Maharashtra Revenue Tribunal [for short "MRT"] rejecting the Revision Application No.111 of 2010 on the ground of delay.

2. Facts of the case are that an application was filed by the Petitioner-landlord purportedly under Section 43B of the Maharashtra Tenancy and Agricultural Lands Act [for short "the Tenancy Act"] seeking fixation of purchase price in respect of the subject land and to direct the Respondent to purchase the same. Tahsildar and ALT by order dated 19th April 2006 rejected the application holding that the subject land does not fall within the purview of Section 43A(1) of the

Tenancy Act. As against this, an appeal under Section 74 of the Tenancy Act came to be filed before the SDO, which was rejected and the Petitioner challenged the same by way of revision before the MRT under Section 76 of the Tenancy Act after a delay of almost 2 years. MRT has rejected the application for condonation of delay for the reason that there is no sufficient explanation for delay and the medical certificate enclosed for the delay is vague.

3. Heard Mr. Sandeep Koregave, learned counsel appearing for the Petitioner and Mr. Pradeep Gole, learned counsel appearing for the Respondents.

4. Learned counsel appearing for the Petitioner would submit that the medical certificate in support of the illness of Petitioner was filed before MRT and tenders a copy of the same. He would further point out the explanation given in the application for condonation of delay, i.e., medical ailment of Petitioner and would submit that the same has been substantiated by the medical certificate and despite thereof, the MRT has refused to condone the delay.

5. *Per contra* learned counsel appearing for the Respondents would submit that this is a second round of litigation and in the previous round, the application was rejected and despite thereof an application was made seeking the same reliefs.

6. Considered the submissions and perused the record.

7. Before this Court the validity of order dated 30th March 2016 rejecting the application for condonation of delay of 2 years is challenged. In exercise of powers of judicial review it will have to be seen as to whether the discretion exercised by MRT suffers from arbitrariness. In that context, if the application filed by the Petitioner for condonation of delay is seen, the same pleads that the Petitioner was not physically well and that his mental condition was not sound. Thus, he was unable to look after his day-to-day affairs resulting in delay of 2 years. It is well settled that it is not necessary that each and every day's delay is required to be explained, however, the explanation must be sufficient enough to explain the delay.

8. Perusal of the application would indicate that general pleadings are made without any details and particulars and it is stated that the Petitioner's mental condition was not sound and that he was suffering from physical illness. No details of the medical treatment undertaken by the Petitioner has been stated in the said application. There is no mention of the period during which the Petitioner was restricted in carrying on his routine life due to his mental condition or physical illness. The medical certificate tendered across the bar states that the Applicant is suffering from hypertension and COPD and therefore medically unfit to do his routine work.

9. The certificate does not establish that the Petitioner was

suffering from any such mental or physical ailment which would restrict the Petitioner from carrying out his day-to-day affairs. The impugned order of MRT indicates that even after filing of the application, the Applicant and his advocate did not remain present on five dates and thereafter a fresh notice came to be issued to remain present on 31st December 2015. On 31st December 2015 an application was sent through the clerk of the advocate and the matter was again adjourned on 15th March 2016, however, on the adjourned date neither the Petitioner nor his advocate was present and the MRT on the basis of documents on record has proceeded to reject the application. It is therefore clear that the intention of Petitioner is to delay the proceedings. Despite filing revision, neither the Petitioner nor his advocate remained present. The explanation tendered in the application has not been accepted by MRT for the reason that the medical certificate is vague and does not explain the delay of more than two years.

10. Considering the manner in which the entire proceedings have been conducted by the Petitioner, it is clear that the Petitioner has been negligent in pursuing the proceedings. The Petitioner having failed to take steps diligently to challenge the order of SDO and having failed to tender sufficient explanation for delay caused, the order of MRT rejecting the application does not suffer from any infirmity.

11. In the light of above, there is no merit in the petition. Petition stands dismissed.

[Sharmila U. Deshmukh, J.]