

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1365 OF 2024
IN
CIVIL REVISION APPLICATION (ST) NO.2894 OF 2024

Ajay Balkrishna Durve ... Applicant

Vs.

Aventis Pharma Ltd. ... Respondent

WITH
INTERIM APPLICATION NO.1118 OF 2024
IN
CIVIL REVISION APPLICATION (ST) NO.2514 OF 2024

Narayan Govind Naik ... Applicant

Vs.

Aventis Pharma Ltd. ... Respondent

WITH
INTERIM APPLICATION NO. 1119 OF 2024
IN
CIVIL REVISION APPLICATION (ST) NO.2519 OF 2024

Shri Indira Tolasingh Bhandari ... Applicant

Vs.

Aventis Pharma Ltd. ... Respondent

WITH
INTERIM APPLICATION NO. 1120 OF 2024
IN
CIVIL REVISION APPLICATION (ST) NO.2523 OF 2024

Mohan Jadhav ... Applicant

Vs.

Aventis Pharma Ltd. ... Respondent

WITH
INTERIM APPLICATION NO. 1121 OF 2024
IN
CIVIL REVISION APPLICATION (ST) NO.2526 OF 2024

Shri Mustaf Abbas Kureshi ... Applicant
Vs.
Aventis Pharma Ltd. ... Respondent

WITH
INTERIM APPLICATION NO.1122 OF 2024
IN
CIVIL REVISION APPLICATION (ST) NO.2529 OF 2024

Shri Dangal Suka Pantpatil ... Applicant
Vs.
Aventis Pharma Ltd. ... Respondent

WITH
INTERIM APPLICATION NO. 1359 OF 2024
IN
CIVIL REVISION APPLICATION (ST) NO. 2881 OF 2024

Sudesh Mukund Patkar ... Applicant
Vs.
Aventis Pharma Ltd. ... Respondent

WITH
INTERIM APPLICATION NO. 1362 OF 2024
IN
CIVIL REVISION APPLICATION (ST) NO.2890 OF 2024

Shri Dhondiba Vithal Patil ... Applicant
Vs.
Aventis Pharma Ltd. ... Respondent

WITH
INTERIM APPLICATION NO. 1366 OF 2024
IN
CIVIL REVISION APPLICATION (ST) NO. 2915 OF 2024

Shri Lourdes Estevan Pais ... Applicant

Vs.

Aventis Pharma Ltd. ... Respondent

Mr. Pranil Sonavane a/w Mr. Raj Chourasia, Ms. Varsha Gangawane for the Applicant in all Applications.

Ms. Nikita Vardhan i/b. Kanga & Co. for the Respondent No.1 in all the Applications.

Mr. Pradeep Thorat a/w Ms. Aditi Naikare for the Respondent No.2 in all Applications.

CORAM : RAJESH S. PATIL, J.

DATE : 20th MARCH, 2024

P. C. :

1. These group of 13 Civil Revision Applications has been filed by persons who claimed themselves to be the ex-employees of Respondent No.1-Company. The facts in all these Civil Revision Applications are identical. Therefore, all Civil Revision Applications are disposed of by this common order.

2. These Civil Revision Applications have been filed against the concurrent findings recorded by the Small Causes Court, Bombay in the proceedings filed under Section 41 of the Presidency Small Causes Courts Act, 1882 (for short, “the Courts

Act”), along with Interim Applications to condone the delay of almost 10 years.

3. Mr. Sonavane, learned counsel appearing for the Applicants in all the above Applications submits that the Applicants were in *bonafide* belief that at some day, they will also be getting a new premises, like the other employees who had received the premises pursuant to the scheme floated by Respondent No.1-Company. He submitted that in the delay condonation Applications, it has been specifically mentioned that there was a delay in filing the Civil Applications. He submits that this Court may take a liberal view and allow the Applicants to argue the matters on merits. He further submitted that the Applicants were tenants of Respondent No.1-Company, as also all of them were working with Respondent No.1-Company and as of now under the voluntary retirement scheme, they are no more in the employment of Respondent No.1-Company. Respondent No.1-Company, around a year back, by way of conveyance deed sold out the properties of the Company to Respondent No.2. He further submits that initially, Respondent No.1-Company had filed an Application No.59 of 2000 before the Competent Authority u/s. 24 of the Maharashtra Rent Control 1999 (for short, “the Rent Act”) He submits that in the said proceedings, the Applicants took a stand that they were tenants and the competent authority would have no jurisdiction to try and entertain the eviction proceedings. Subsequent to the said objection, the said proceedings were dismissed. He further submits that Respondent No.1-Company

thereafter did not challenge the findings recorded against it. He submits that thereafter a new eviction proceedings were filed against the Applicants under the provisions of the Presidency Small Causes Courts Act, 1882 before the Small Causes Court. He submits that the Applicants raised an objection under the mandate of provisions under Section 41 of the Presidency Small Causes Courts Act, 1882. He submits that the said eviction proceedings were decreed in favour of Respondent No.1-Company / plaintiff. Hence, the present Applicants filed an Appeal challenging the eviction decree. He further submits that the said Appeal was also dismissed by the Appellate Bench. He further submits thereafter there were settlement talks between the Applicants and Respondent No.1-Company. Hence, Applicants *bonafide* believe that Respondent No.1-Company will not take steps to execute the decree. He further submits that the Applicants have a good case on merits and hence delay condonation Applications should be allowed. To buttress his submission, he relied upon the Supreme Court judgments. They are as follows;

(i) ***N. Balkrishna vs M. Krishnamurthy***¹

In the said judgment, the Supreme Court condoned the delay of 883 days.

(ii) ***Brihan Mumbai Electric Supply and Transport vs BEST Jagrut Kamgar Sanghatana***²

Wherein the delay of 5 years and 11 months was condoned.

1 (1998) 7 SCC 123

2 2023 SCC OnLine Bom 2530

4. Ms. Nikita Vardhan, learned counsel appearing for Respondent No.1-Company submits that her client has already sold the suit land to Respondent No.2. Therefore, at this stage, she is unable to offer any kind of settlement proposal to the Applicants. She submits that on the earlier occasion, in the year 1999, Respondent No.1-Company had floated a scheme of voluntary retirement during which time, they had offered their employees, who were residing in the accommodation provided by the Company, to purchase the individual flats by paying some amounts. She submits that around 55 workers out of 88 workers accepted the said offer and became owners of their individual flats. She further submitted that there after the workers who did not vacate the accommodation provided by the Company, Respondent No.1-Company filed eviction proceedings against them. She submits that even when the said eviction proceedings were pending, Respondent No.1-Company offered settlement proposals. She submits that few of the employees / ex-employees came forward and signed the consent terms. She also further submitted that on the earlier occasion against the concurrent findings, to her knowledge atleast two of the ex-employees had approached the High Court. Their CRA was dismissed on merits. She therefore submits that there is no merit in the delay condonation Applications as also in the Civil Revision Applications. Therefore, the same should be dismissed. She submits that there is no sufficient cause mentioned in the delay condonation Applications in order to condone the delay. She submits that Respondent No.1-

Company and Respondent No.2 have already filed a reply to the Interim Applications opposing the condonation of delay.

5. Mr. Thorat, learned counsel appearing for Respondent No.2 submits that it is admitted fact that the Applicants were aware about the passing of the impugned Judgment and order in the year 2016. As per the case made out by the Applicants in the Interim Applications, he submits that there is no reasons mentioned in the Interim Applications to condone the delay of around 10 years. Mr. Thorat relied upon the Judgments in the case of *Majji Sannemma alias Sanyasirao vs. Reddy Sridevi and ors.*³ and *Ajay Dabra vs. Pyare Ram and ors*⁴. Therefore, he prays that the Interim Applications be dismissed with costs.

6. I have heard the learned counsel for the parties and have considered the documents placed on record and the Judgments cited by the parties.

7. Mr. Sonavane, has led emphasis on paragraph nos.3 to 7 of the Interim Applications for condoning delay. Paragraph Nos.3 to 7 read as under:

3. The Applicant submits that, after filing of the Appeal proceeding, the representatives of the original Plaintiff Company approached to the Applicant and offered the proposal for amicable settlement of dispute. After due negotiation, the official personnel of Respondent –

3 (2021) 18 SCC 384

4 2023 SCC OnLine SC 92

Company gave assurances that the suit premises would be transferred in favor of Applicant by executing sale deed with reasonable concession in consideration amount. The Respondent Company has also sold out in all 55 out of total 81 tenements of the said building in favor of its employee who were working with the present Applicant in the company up-till 1999.

4. The Applicant submits that due to assurance given by the company, the applicant could not pay much more attention to the progress of proceeding pending before the Hon'ble Small Causes Court (Appellant Bench). In the meanwhile, the Plaintiff-company, under the pretext of negotiations protracted the proposal of alienating the suit premises by executing document of sale in favor of Applicant. In contrast, the Respondent pursued the proceeding in Hon'ble Small Causes Court, and fraudulently obtained the impugned Judgment and Decree from the court of law.
5. The Applicant submits that, as per the assurances given by the Plaintiff Company, they bonafidely waited for the Plaintiff Company to adhere to their commitments. Therefore, the Applicant did not pay much attention towards the court proceedings. In fact, the Applicant believed that, the matter could be resolved by mutual negotiations since the Plaintiff Company always showed their willingness and positiveness from their side. But, thereafter, for the reasons best known to the Plaintiff-company, the proposal to alienate the suit premises in favor of employees came to standstill. Albeit, due to change in policy abruptly by the Respondent Company, the Applicant – original Defendant precluded from getting the suit premises transferred in his favor by executing document of sale deed.
6. The Applicant submits that, he has occupied the suit premises on the strength of tenancy created during his

service period by executing written agreement. Therefore, the provision of sec. 41(1) of the Presidency Small Causes Court Act 1882 would not be attributed in the present matter by virtue of express provision of sec. 41(2) of the Presidency Small Causes Court Act 1882. Moreover, the provision of section 47 of Maharashtra Rent Control Act 1999, also put an embargo on the jurisdiction of Civil Court to entertain the matters which are amenable within the powers of Ld. Competent Authority under Act of 1999.

7. The Applicant submits that, the Respondent – Company lured the Applicant – employee under the garb of mutual settlement of dispute by negation, which precluded the Applicant – original defendant to approach this forum at the earliest. There is a delay to file the present revision petition. It is worth to mention that when the Applicant – original defendant received the notice of eviction petition filed by one individual claiming to be transferee of Decree Holder of Respondent Company, the Applicant tried to reconcile the dispute with the employees of Respondent but the shown reluctance and moreover the conduct and demeanor of the official personnel of Respondent – company demonstrated that there was something fishy. The Applicant realized the mischief played by the Respondent – company. In such peculiar circumstances the Applicant has no any alternative but to approach this Hon'ble court to redress his grievance.

8. Mr. Thorat has drawn my attention to paragraph 10 of the Interim Application which according to him shows that the Applicants were aware of passing of the impugned order in the year 2016. Paragraph 10 of the Interim Applications reads as under :

10. The Applicant submits that the impugned judgment and order was passed on 09th May, 2013 passed by the Ld. Division Bench of the Court of Small Causes (Appellant Court), at Mumbai, in Appeal No.60 of 2012. The Appellant got the knowledge about the impugned judgment in the year 2016. As stated herein above the applicant under the bonafide belief that the negotiations were ongoing and as per the assurance of the Respondent company to resolve the issue mutually, instead of escalating the issue in further legal proceeding, the Applicant did not challenge the impugned order. The limitation to file the revision petition ended on 9/7/13. Hence there is delay of 10 years and 168 days in filing the present application.
9. These Civil Revision Applications are filed by the defendants who have suffered eviction decree from the trial Court and the first Appellate Court. The present Civil Revision Applications are undisputedly filed after a period of 10 years. I have gone through the content of the Interim Applications and I find no justifiable reasons mentioned in the Interim Applications to condone the delay. In the earlier round of litigation, when the eviction proceedings were filed before the competent authority, the present Applicants raised an objection of jurisdiction. Hence, the competent authority rejected the Application filed by Respondent No.1-Company. Therefore, Respondent No.1-Company filed eviction proceedings under Section 41 of the the Presidency Small Causes Courts Act, 1882, and the trial Court as well as the Appellate Court both have concurrently held that the grounds of eviction were proved. Hence, the eviction decree has been passed.

The said eviction decree has been challenged before this Court after a span of 10 years.

10. Mr. Sonavane has referred to and relied on the Judgment in case of *N. Balkrishna* (supra) more specifically paragraph No.9 wherein the Supreme Court had led emphasis on the issue of length of delay, where it is held that length of delay is no matter, acceptability of the explanation is the only criteria. However, I am not satisfied in the present proceedings with the reasons cited by the Applicants.

11. Two Judgments were cited by Mr. Thorat on the issue of condonation of delay. In the Judgment of *Majji Sannemma alias Sanyasirao* (supra), the delay of 1011 days was not condoned by the Supreme Court holding therein that the reasons given in the delay condonation Application were not satisfactory. In the Judgment of *Ajay Dabra* (supra), the Supreme Court did not condone the delay of 284 days and dismissed the SLP. The ratio laid down in these two judgments is squarely applicable to the present proceedings.

12. According to me, no case is made out to condone the delay of more than 10 years in filing Civil Revision Applications.

13. Hence, all Interim Applications stand dismissed. In view of dismissal of Interim Applications, all Civil Revision Applications stand dismissed.

14. At this stage, Mr. Sonavane, submits that the hearing of the eviction proceedings pending before the trial Court should be deferred by this Court for a limited time so that the Applicants can challenge this order before the Supreme Court.

15. Mr. Thorat and Ms. Vardhan opposes the oral request made by Mr. Sonavane.

16. This Court had earlier granted protection to these Applicants. Hence, the trial Court is directed to defer the hearing of eviction proceedings for a period of four weeks from today.

17. M/s. Kanga & Co. is permitted to file Vakalatnama on behalf of the respondent no.1 in all the applications.

(RAJESH S. PATIL, J.)