



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No.2788 of 2024

**NEHA D/O VINOD BHATT ALIAS, SMT. NEHA W/O BADAL TIWARI
VS
ARUN RAMBHAU DHOBLE AND ANOTHER**

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri N.A. Lalwani, Advocate for the Petitioner/s
Shri M.L. Chandrikapure, Advocate for the respondent No.1
Ms R. Shukla, Advocate for the respondent No.2
Shri Futane, AGP for the respondent No.3/State

**CORAM : ANIL S. KILOR, J.
DATE : 29.04.2024**

1. Leave to add Additional Commissioner, Nagpur as party respondent No.3.
2. Amendment be carried out forthwith.
3. The learned AGP waives service of notice for the respondent No.3/State.
4. Heard the learned counsel for the respective parties.
5. In the present matter, the order under challenge is dated 05.03.2024 passed by the respondent No.3, allowing the application for condonation of delay along with the revision arising out of the judgment and order of the Rent Controller dated 02.11.2023, filed by the respondent Nos.1 and 2.

6. After going through the impugned order, it is evident that the order is cryptic and without recording the reasons and without taking into consideration the case of the petitioner.

7. The order passed by the respondent No.3, reads thus:

“Obsⁿ & dirⁿ :-

As seen from the record that there is no relationship of tenant landlord created due to any agreement.

the RCA’s order is passed Ex parte the principles of Natural justice are violated prima facie.

Further, as seen from FIR done by the applicant and the civil suit about challenging the sale deed is already pending, it is the first point to be seen that who is the owner of the property and hence, unless the civil suit is decided, it will not be concluded in advance by RCA. I don’t find any merit in RCA’s order which is against the PNJ.

Further, the delay in this case is due to technical reason as mentioned by the applicant, and if the delay is not condoned then it will be an injustice to the senior citizen who is residing in the house owned by him in original. there is merit in this case. Delay is condoned and RCA’s order is set aside for the above reasons. Respondents are directed not to intervene in the possession of the applicant till the civil suit is decided.”

8. From the above referred order, it is evident that there is no mention of sufficient reasons while arriving at a conclusion that there is no relationship of tenant and landlord.

9. Further it is the case of the petitioner that, the respondent Nos. 1 and 2 were served with the notices and they chose not to appear in the matter and such stand was taken in the reply. Despite the same, there is no consideration of such ground and contrary to it, it has observed that the opportunity was not given to the respondent Nos.1 and 2 and hence, there is violation of principles of natural justice.

10. Similarly, while condoning the delay, no reasons are recorded.

11. In the circumstances, I am of the opinion that the only option left with this Court, in the above referred backdrop, is to refer the matter back to the Additional Commissioner, Nagpur, to decide the same afresh, after hearing both the parties and after considering the case put up by the respective parties. Accordingly, I pass the following order:

- (i) The writ petition is partly **allowed**.
- (ii) The order dated 05.03.2023 passed by Additional Commissioner, Nagpur, is hereby quashed and set aside.
- (iii) The matter is remanded back to the Additional Commissioner, Nagpur for the deciding the same afresh, after hearing both the parties.
- (iv) Parties are directed to remain present before the Additional Commissioner, Nagpur on **08.05.2024, at 12.00 noon**.
- (v) The Additional Commissioner, Nagpur shall decide the Revision Application afresh, after hearing both the parties within one month from the date of appearance.

Accordingly, the writ petition is disposed of in the above terms. No order as to costs.

[ANIL S. KILOR, J.]