



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

Writ Petition No.502 of 2024

ANIL S/O. VIVEKANAND BELSARE

VS

**SMT. ASHA W/O. DIGAMBAR THAKRE, (DECEASED) THR. HER LRS. SHRI.
NISHANT S/O DIGAMBAR THAKRE**

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

Court's or Judge's Order

Shri D.G. Paunikar, Advocate for the Petitioner/s
Shri R.M. Sharma, Advocate for the respondent-sole

CORAM : ANIL S. KILOR, J.
DATE : 17.04.2024

1. Heard.
2. In this petition, the order dated 08.09.20223 passed by the Additional Collector, Nagpur, rejecting the application for condonation of delay in filing the rent appeal, is under challenge.
3. It is the case of the petitioner that, he is the tenant and the respondent/landlord has initiated a proceeding for fixation of fair rent under clause (4) and (5) of the Central Provinces and Berar Letting of House and Rent Control Order, 1949 (for short "the Rent Control Order") regarding the premises occupied by the petitioner/tenant. The said proceeding was partly allowed vide order dated 14.09.2015.
4. It is further stated that the said order was never communicated to the petitioner and on receiving the notice from the respondents on 21.08.2017, the petitioner got knowledge about the order dated 14.09.2015.

5. Thereafter, the petitioner applied for certified copy on 04.09.2017 and it was received on 15.09.2017. Thereafter, on 29.09.2017, the appeal was filed.

6. In the above referred backdrop, it is the case of the petitioner that there was no delay caused in filing the rent appeal and as an abundant precaution, the application for condonation of delay was filed, which came to be rejected by the impugned order.

7. It is submitted that the time period of 15 days for filing rent appeal is provided from the date of communication of the order, under Clause 21 of the Rent Control Order.

8. It is submitted that since the order was never communicated, on receipt of the knowledge, the appeal was filed and if the date of events recorded herein above are considered, there is no delay in filing the rent appeal.

9. In the circumstances, I do find substance in the argument of the learned counsel for the petitioner, as it is a requirement under Clause 21 of the Rent Control Order, which provides a limitation of 15 days for filing rent appeal, from the date of communication of the order.

10. In this case, admittedly, the order dated 14.09.2015 was never communicated to the petitioner and if the time period within which the rent appeal was filed after receiving the certified copy is considered, it was filed within 15 days. Even from the date of notice, within a reasonable time, the petitioner applied for certificate copy.

11. In the circumstances, the Additional Collector has committed error in rejecting the application. Though the learned counsel for the respondent is opposing the present writ petition, I do not find any substance in the same. Accordingly, I pass the following order:

- (i) The writ petition is **allowed**.
- (ii) The order dated 08.09.2023 passed by the Additional Collector, Nagpur, is hereby quashed and set aside and it is held that there is no delay caused in filling the rent appeal.
- (iii) Considering the fact that the matter is old and it relates to fixation of fair rent, the Additional Collector, Nagpur is directed to decide the rent appeal, as early as possible, and in any case within a period of 4 months from today.

12. The parties to appear before the Additional Collector, Nagpur on **24.04.2024 at 12.00 noon**.

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

[ANIL S. KILOR, J.]