



C.M.P.No.16715 of 2024
in W.A.No. SR 101653 of 2024

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THE HON'BLE ACTING CHIEF JUSTICE
and
P.B.BALAJI,J.

(Order of the court was made by
the Hon'ble Acting Chief Justice)

Heard Mr.A.Edwin Prabakar, learned State Government Pleader for the petitioner and Mr.T.Mohan, learned Senior Counsel for Ms.D.Geetha for the first respondent.

2. This petition has been filed by the petitioner to condone the delay of 376 days in filing the appeal against the order dated 14.6.2023 made in W.P.No.13488 of 2005.

3. The case of the petitioner is that after the disposal of the writ petition, steps were taken to obtain certified copy of the order, however, due to inadvertence, the copy application was not pursued and the certified copy was not obtained. In the meantime, a doubt had arisen as to whether the writ petition was criminal in nature and after getting opinion at various levels, including from learned Public Prosecutor, it was decided to file writ appeal before this Court as



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against the order dated 14.6.2023. The copy of the order was received on 19.9.2023 and the same was forwarded to the Police Department for getting their remarks and after getting legal opinion, the appeal was filed. In the above process, a delay of 376 days occurred in filing the writ appeal.

4. Learned State Government Pleader appearing for the petitioner/appellant submitted that the delay is neither willful nor wanton and reason for the delay has been stated in the affidavit filed in support of the petition. He would submit that the writ appeal is filed only against the quantum of compensation awarded by the learned Single Judge.

5. Adding further, learned State Government Pleader submitted that pursuant to the impugned order, Rs.21,80,000/- was sanctioned under G.O.Ms.No.568, dated 7.8.2024 and the same deposited into the account of the first respondent/writ petitioner. The first respondent/writ petitioner was permitted to withdraw Rs.10,90,000/- and the remaining Rs.10,90,000/- has been ordered to be retained in the said account for a period of six weeks or till orders are obtained in the writ



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appeal. He would submit that the appellant is ready to argue the main appeal.

6. Learned Senior Counsel appearing for the first respondent strongly opposed the petition and submitted that no sufficient cause shown for condonation of the delay of 376 days in filing the appeal.

7. We have considered the rival submissions and also perused the materials available on record.

8. According to the petitioner, though steps were taken to obtain the certified copy of the order, the same was not pursued and a doubt had arisen as to whether the writ petition was criminal in nature and after getting clarification from learned Public Prosecutor, steps were taken to prepare the appeal grounds. In that process, a delay of 376 days occurred and the said delay is neither willful, nor wanton, but due to bona fide reasons.

9. According to the first respondent, no cause, much less sufficient cause, has been shown and the only reason stated for the



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period preceding 19.9.2023 is that they sought advice of learned Public Prosecutor and that steps were taken to prepare the appeal grounds.

10. Learned State Government Pleader submitted that the delay in filing the appeal having been sufficiently explained and there being no lack of bonafides on the part of the petitioner, the Court ought to have adopted a liberal approach and condone the delay.

11. The Apex Court in ***H. Dohil Constructions Co. (P) Ltd. v. Nahar Exports Ltd., (2015) 1 SCC 680*** and various other decisions held that the Court is vested with power to condone the delay in filing an appeal, provided sufficient cause is shown by the petitioner. It is not necessary that the petitioner should explain every day's delay in literal sense. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice should be given due weightage. Any course of action adopted by the Court must serve the ends of justice. Once the Court is convinced that delay is properly explained and is non-deliberate, then it must consider condoning the delay.



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12. As stated supra, the petitioner confined the appeal only on the quantum of compensation awarded by the learned Single Judge and pursuant to the order dated 7.8.2024 passed in Contempt Petition No.2125 of 2024, the petitioner had deposited a sum of Rs.21,80,000/- to the account of the first respondent and the first respondent had been permitted to withdraw Rs.10,90,000/-. The said fact has not been disputed by learned Senior Counsel for the first respondent. In view of the above, if the delay is condoned and the appeal is heard, no prejudice would be caused to the first respondent. More over, the primary function of a Court is to adjudicate the dispute between the parties and to advance substantial justice.

13. The affidavit filed in support of the petition seeking condonation of delay spelt out the reasons for the delay in filing the appeal and the reasons specified in that regard could not be held to be insufficient, nor there is lack of bonafides in the reason ascribed by the petitioner.

14. Though this Court is satisfied with the reasons assigned in the affidavit filed in support of this petition, considering the huge delay



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in filing the above appeal, delay is condoned on condition that the petitioner shall pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the first respondent/writ petitioner, within a period of two weeks from the date of receipt of copy of this order.

15. This civil miscellaneous petition is ordered subject to the payment of costs as directed hereinabove. On production of receipt confirming the payment, the Registry is directed to number the appeal and list the same in the usual course.

(D.K.K., ACJ.) (P.B.B., J.)
14.08.2024

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