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HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 1367 of 2026

Suresh Mishra S/o Shri Govind Prasad Aged About 42 Years R/o Gurunanak Ward, Bhatapara, Tahsil Bhatapara, District Baloda Bazar-Bhatapara Chhattisgarh

... Petitioner

versus

Smt. Chandabai Agrawal W/o Shri Babulal Agrawal Through Mukhtyar Govind Agrawal, R/o Shankar Ward, Bhatapara, Tahsil Bhatapara, District Baloda Bazar Bhatapara Chhattisgarh

... Respondent

(Cause title taken from Case Information System)

For Petitioner	:	Mr. Anand Mohan Tiwari, Advocate.
For Respondent	:	None present.

Hon'ble Mr. Krushna Ram Mohapatra, Chief Justice

Hon'ble Mr. Santosh Sharma, Judge

Judgment on Board

Per : Krushna Ram Mohapatra, Chief Justice

29.10.2026

1. The petitioner, in this writ petition under Article 227 of the Constitution of India, seeks for the following reliefs :-

a) Quash the Impugned Order dated 09/09/2026 passed by the Chhattisgarh Rent Control Tribunal, Raipur, to the

extent it dismisses the application under Section 5 of the Limitation Act;

b) Remit the matter to the Tribunal for fresh consideration of the Section 5 application and the accompanying appeal, in accordance with law and in the light of the law laid down by the Hon'ble Supreme Court in N. Balakrishnan and Collector, Land Acquisition;

c) Grant such other relief as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

2. It is submitted that the application under Section 12 of Chhattisgarh Rent Control Act, 2011 (for brevity, 'Act, 2011') was filed by the respondent-landlord for eviction of the petitioner-tenant. Admittedly, the petitioner had taken the demised premises on rent for commercial purpose. Upon receipt of the application, the Chhattisgarh Rent Control Authority (for brevity, 'RCA') issued notice to the present petitioner, who was respondent therein. Pursuant to the said notice, the petitioner appeared and participated in the said proceeding.

3. In course of the proceeding, the petitioner remained absent on 6.11.2024. But the RCA directed for issuance of fresh notice to the petitioner. Pursuant to the said notice, the petitioner appeared before the RCA. Again the petitioner remained absent on 6.8.2025, for which, fresh notice was issued to the petitioner. Pursuant to the said notice, the petitioner appeared before the RCA. It is, however alleged that on 13.8.2025, the RCA without recording the appearance of the petitioner, simply posted the case to a subsequent date. In the meantime, a criminal proceeding was initiated against the petitioner and he was apprehending

arrest in the said proceeding. Thus, the petitioner alleged to have intimated his learned counsel to take appropriate steps in the proceeding before the RCA till he gets an order of bail. Due to absence of the petitioner, he was set *ex parte* on 8.9.2025. However, no notice thereafter was served on the petitioner.

4. It is further submitted by learned counsel for the petitioner that the matter was posted to 24.9.2025 for further hearing, when the argument of respondent, who is petitioner herein, was recorded. Thereafter, the matter was posted to 8.10.2025 and on 15.10.2025 final order was passed by the RCA.

5. In the meantime, the petitioner pursuant to the direction of Hon'ble Supreme Court, surrendered before the trial Court in the criminal proceeding on 13.03.2026 and was released on bail on 19.03.2026. After being released on bail, the petitioner contacted his counsel and filed the appeal on 21.04.2026.

6. It is submitted by learned counsel that the petitioner was not provided the ample opportunity of hearing as provided under Section 10 of the Act, 2011. The procedure provided under the Civil Procedure Code, 1908 is not strictly applicable to the proceedings under the Act, 2011. As such, the Rent Control Tribunal should have adopted a liberal approach in condoning the delay and provided an opportunity to the petitioner to participate in the proceeding. It is his submission that as the petitioner was apprehending arrest, he could not appear before the RCA, for which, he was set *ex parte* and subsequently final order of eviction was passed against him. However, on being released on bail, he contacted his counsel

and immediately filed the appeal under Section 13(1) of the Act, 2011 on 21.4.2026. Thus, the delay in filing the appeal was sufficiently explained in the application for condonation of delay filed along with the appeal memo. In support his case, learned counsel for the petitioner places reliance upon the decision of **Deepak Sona vs. Amolak Singh Bhatia**, (in Writ Petition (227) No. 340 of 2024), which was decided along with several other writ petitions and the Co-ordinate Bench of this Court vide order dated 25.04.2024 allowed the writ petition with the following observation :-

> 15. A conspectus of the aforesaid decisions would show that their Lordships of the Supreme Court have clearly indicated that a liberal approach in considering the application for condonation of delay on the ground of sufficient cause under Section 5 of the Limitation Act, has to be adopted and appeal has to be decided on merits unless the case is hopelessly without merit. "Sufficient cause" within the meaning of Section 5 of the Limitation Act has to be construed liberally so as to advance substantial justice especially when the delay is not deliberate and outcome of mala fide.
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> 16. Reverting to the facts of the present case in light of the principles of law laid down by their Lordships of the Supreme Court, as sufficient cause has to be construed liberally and appeal has to be disposed of on merits, it is quite vivid that though the petitioners are said to have refused to accept the notice as per the finding of the Rent Control Tribunal, but that was not acted upon and thereafter, again the Rent Controller has directed for issuance of notice which, as per Postal Track Consignment, was served, but it is nowhere established that it was actually served on the petitioners. The

> petitioners being tenants would not be benefited by deliberately remaining absent inviting the order for eviction of the premises against them where they are residing. In that view of the matter, the finding recorded by the learned Tribunal that no sufficient cause has been shown, appears to be contrary to the facts and law available on record. Therefore, in our considered opinion, sufficient cause for delay in filing the appeals has been shown. The orders impugned passed by the learned Tribunal are hereby set-aside and delay in filing the appeals is hereby condoned. Accordingly, the matters are remitted to the board of the Chhattisgarh Rent Control Tribunal to consider and dispose of all the appeals of all the petitioners herein afresh strictly in accordance with law, expeditiously.

7. It is, thus, submitted that the delay in filing the appeal should be condoned and the appeal should be heard by the Rent Control Tribunal on merit.

8. Taking note of the submission made by learned counsel for the petitioner and on perusal of the record, this Court finds that on 8.9.2025, the petitioner was set *ex parte*. Before hand, the petitioner remained absent before the RCA on several occasions and notices were issued by the RCA to him to participate in the proceeding. Issuance of notice by the RCA to a party on each day of posting of the matter before the RCA is not prescribed under the provisions of the Act, 2011. Since the petitioner participated in the proceeding by engaging a lawyer, it was his responsibility to be diligent in participating in the proceeding before the RCA and defend his case.

9. Even after the petitioner was set ex parte on 8.9.2025, he did not take any step to set-aside the ex parte order and allowed the RCA to pass the final order of eviction on 15.10.2025. By that time, he was not in custody. As submitted by learned counsel for the petitioner, petitioner surrendered before the trial Court only on 13.6.2026 pursuant to the direction of Hon'ble Supreme Court. Thus, the petitioner had sufficient opportunity either to pray for setting aside the ex parte order before the RCA or to file appeal under Section 13 (1) of the Act, 2011 before the Rent Control Tribunal within the stipulated period, if he felt aggrieved by the final order passed by the RCA. Plea of apprehension of arrest cannot be a ground for condonation of delay in filing the appeal. In fact, the petitioner was at liberty to file the appeal under Section 13(1) of the Act, 2011 within the stipulated period, as he had sufficient knowledge of the proceeding before RCA. He having not done so and no plausible explanation having been offered by the petitioner, we are not satisfied with the contentions raised by learned counsel for the petitioner.

10. There cannot be any dispute to the ratio decided by the Coordinate Bench in **Deepak Sona** (supra). But the observations at paragraphs 15 and 16 of the said case law, as quoted above, are of no assistance to the petitioner, as he had sufficient opportunity to participate in the proceeding before the RCA and to file appeal within stipulated time. By issuing repeated notice, the RCA had provided ample opportunity to the petitioner to take part in the proceeding and defend his case. A party not availing opportunity provided to him in a proceeding cannot complain non-compliance of principle of natural justice. The RCA has complied with the provisions under Section 10 of the Act, 2011 in its letter and spirit. The

explanation offered for condonation of delay should be construed liberally, but a person who is thoroughly negligent and not at all diligent in participating in the litigation and avoiding the court proceeding does not deserve such leniency of the Court, as in the present case, it appears that the petitioner was thoroughly negligent in participating in the proceedings, despite having sufficient notice and opportunity.

11. In that view of the matter, we find no merit in the writ petition. Accordingly, the writ petition stands dismissed.

Sd/-
(Santosh Sharma)
Judge

Sd/-
(Krushna Ram Mohapatra)
Chief Justice

Dubey