

(1991) 08 NCDRC CK 0010

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

Rajasthan Housing Board

APPELLANT

Vs

K.P.DHEER

RESPONDENT

Date of Decision: Aug. 5, 1991

Citation: 1992 1 CPJ 246

Hon'ble Judges: S.K.Mal Lodha , Damodar Thanvi J.

Final Decision: Appeal rejected

Judgement

1. THIS appeal under Section 15 of the Consumer Protection Act, 1986 ("the Act" hereinafter) has been filed against the order dated 13-8-1990 passed by the District Forum, Jaipur in complaint Case No. 189/90. Certain directions were given against the opposite parties-appellants. The appeal was presented on 18-12-1990 against the order dated 13-8-1990. The period prescribed for filing the appeal is 30 days from the date of the order. Application for certified copy was submitted on 17-8-1990. The copy was ready on 21-8-1990. It was issued on 21-9-1990. There is some interpolation in number 9 relating to month.

2. OFFICE reported that it has been presented 61 days after the expiry of the period of limitation. With the appeal an application under Sections of the Limitation Act for consideration of delay supported by affidavit of T.P. Mittal, Residential Engineer, Division VII, Mansarowar Colony, Jaipur was submitted. In the application it was stated that delay of 61 days caused in filing the appeal may be condoned. After perusing the application, notice was ordered to be issued to the appellant to show cause why this appeal be not rejected as it was presented after 61 days of the expiry of the period of limitation. Nobody has appeared on behalf of the appellants.

We have carefully considered the application and the affidavit. It is settled law that autonomous Board or a Corporation or State is not on a different footing than a private party for seeking condonation of delay in filing the appeal. Proviso to Sec. 15 of the Act is in pari materia with Sec. 5 of the Limitation Act, 1963. "Sufficient cause" and "satisfied" used in the provision to Sec. 15 of the Act have to be given the same meaning which has been attributed thereto over a long line of precedents under Sec. 5 of the Limitation Act, 1963 and its predecessor Statute of 1908. The Final Court of the country had occasion to consider the question of sufficient cause used in Sec. 5 of the Limitation Act, 1963 and has observed in *Ramlal and Others v. Rewa Coal Fields Ltd.* (AIR 1962 S.C. 361) as under:

"....The context seems to suggest that "within such period" means within the period which ends with the last date of limitation prescribed. In other words, in all cases falling under Sec. 5 what the party has to show is why he did not file an appeal on the last day of limitation prescribed. That may inevitably mean that the party will have to show sufficient cause not only for not filing the appeal on the last day but to explain the delay made thereafter day by day. In other words, in showing sufficient cause for condoning the delay the party may be called upon to explain for the whole of the delay covered by the period between the last day prescribed for filing the appeal and the day on which the appeal is filed...."

It was incumbent upon the appellant seeking condonation under Sec. 5 of the Limitation Act to explain each day's delay. The Supreme Court in *Bikram Dass v. Financial Commissioner and others*, AIR 1977 S.C. 2221 observed as under:

"Section 5 of the Limitation Act is a hard taskmaster and judicial interpretation has encased it within a narrow compass. A large majority of case-law has grown around Sec. 5, its highlights being that one ought not easily to take away a right which has accrued to a party by lapse of time and that therefore a litigant who is not vigilant about his rights must explain every day's delay...."

3. IT is for the appellant to explain each day of default beyond the terminus line of the prescribed period of limitation. The facts stated in para 1 of the application, in our opinion, do not constitute sufficient cause within the meaning of proviso to Sec. 15 of the Act. The appellants have not acted with due diligence and care in presentation the appeal. We are not satisfied that the appellants have made out sufficient cause for condonation of delay. The application for condonation of delay is dismissed. IT follows, therefore, that the appeal has been presented 61 or 63 days after the expiry of the period of limitation. IT is barred by time. IT is consequently rejected. Appeal rejected.