

HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD  
(Special Original Jurisdiction)

[ 3393 ]

TUESDAY, THE THIRTIETH DAY OF JULY  
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE  
AND  
THE HONOURABLE SHRI JUSTICE ANIL KUMAR JUKANTI

WRIT PETITION NO: 18934 OF 2024

Between:

K Sumathi Mohan, W/o K V Mohan Rao Aged about 66 years, Occ. Business,  
R/o House No. 34-74/9, Plot No. E-73, Survey No. 218/1, ward No.1, Mohan  
Buildings, J.J. Nagar, Neredmet X roads, Secunderabad- 500094.

...PETITIONER

AND

1. Debt Recovery Appellant Tribunal, Represented by its Chairman Kolkata.
2. Debt Recovery Tribunal, Represented by its chairman Triveni Complex Abids, Hyderabad.
3. Citiwide Financial Services Limited, R/p by its General Manager K Ramanathan S/o P R Krishna Iyer, 207 Diamond Tower, Sarojini Devi Road, Secunderabad 500003

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue writ or order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ order by setting aside the order dated 11-03-2024 passed by the DRAT Kolkata in I A No.46 of 2024 in Application Diary No 69/2024 and the same be declared as illegal, arbitral and in violation of principals of natural Justice. and consequently quash the same and allow appeal which was filed before Debt Recovery Appellant Tribunal, Kolkata.

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend and further proceedings in Recovery Certificate in R.C.No. 61 of 2023 IN

OA 319 of 2022 on the file of Debt Recovery Tribunal (DRT2) Hyderabad, Dt. 03-03-2023 i.e. Before Respondent No.2, pending disposal of the above writ petition.

**Counsel for the Petitioner: SRI P.ACHUT RAMA SHASTRY**  
**Counsel for the Respondents: --**

**The Court made the following: ORDER**

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE  
AND  
THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI**

**WRIT PETITION No.18934 of 2024**

**ORDER:** (per the Hon'ble the Chief Justice Alok Aradhe)

Mr. P. Achyuta Rama Shastry, learned counsel appears for the petitioner.

2. In this Writ Petition, the petitioner has assailed the validity of the order dated 11.03.2024 passed by the Debts Recovery Appellate Tribunal at Kolkata by which application for condonation of delay preferred by the petitioner has been dismissed.

3. Facts giving rise to filing of this Writ Petition briefly stated are that the Debts Recovery Tribunal had passed an order on 22.02.2023. The limitation for filing the appeal against the aforesaid order before the Debts Recovery Appellate Tribunal under Section 18 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the SARFAESI Act") expired on 22.03.2023. The petitioner however filed an appeal

along with an application for condonation of delay before the Debts Recovery Appellate Tribunal on 23.01.2024. Admittedly, the appeal was filed along with the delay of 311 days. The Debts Recovery Appellate Tribunal by an order dated 11.03.2024 dismissed the application for condonation of delay *inter alia* on the ground that the petitioner has failed to explain the delay between the period from 22.03.2023 till 28.12.2023. Hence, this Writ Petition.

4. We have heard the learned counsel for the petitioner at length.

5. The application for condonation of delay filed by the petitioner before the Debts Recovery Appellate Tribunal is extracted below for the facility of reference.

**“IN THE DEBTS RECOVERY APPELLATE TRIBUNAL, KOLKATA  
9, OLD POST OFFICE STREET, 7TH FLOOR  
KOLKATA 700 001**

**DIARY NO. OF 2023  
APPEAL NO. OF 2023  
(Arising out of M. A. No. 88 of 2022  
in O. A. No 319 of 2022, DRT II, HYDERABAD)**

In the matter of:

An application U/s 5 of the Limitation Act, for condonation of delay in filing appeal in pursuance of the order dated 22.02.2023 in M.A. No 88 of 2022 in O.A. No 319 of 2022.

**M/s K Sumathi Mohan**

....Appellants

Versus

**Citiwide Financial Services Ltd.  
Represented by its Authorized  
Officer**

....Respondent

The humble application on behalf of the Appellant/applicant most respectfully

**SHEWETH:**

1. This is an application praying for condone the delay in filing appeal in pursuance of the order dated 22.02.2023 in M.A. No 88 of 2022 in O.A. No 319 of 2022.
2. The instant appeal is directed against the Order dated 22.02.2023 passed by the Hon'ble Learned Presiding Officer, Debts Recovery Tribunal - II, Hyderabad in MA No. 88 of 2022 in OA No. 319 of 2022. The free copy was not available, and no notice was displayed in the board with regard to the pronouncement of the orders, later the Appellants approached the counsel for clarification as he advised that the petition was dismissed on 22.02.2023 after verification, the certified copy was applied on 09.11.2023 with the department of the Learned Tribunal. Thereafter the order was made readied on 10.11.2023 and delivered to the Id. Advocate for the Appellants on 20.11.2023 by the department, and delivered to the Ld. Advocate for the Appellants in the afternoon by the department. The Appellants was approached the advocate for signatures on 20.11.2023, as he was out of station and unable to contact his advocate. As such the instant appeal is filing with a delay of 5 days before this Hon'ble Appellate Tribunal.
3. It is respectfully submitted that the Appellants a very good case on merits. It is respectfully submitted if the respondent bank is allowed to proceed pursuant to the impugned order, pending disposal of the appeal the instant appeal will be rendered infructuous. The delay of 5 days in filing appeal is neither willful nor wanton.

4. The instant application is made bonafide and in the interest of justice. In view of the above it is prayed that this Hon'ble Tribunal may please to:

a. Condone the delay of days in filing the appeal in pursuance of the order dated 22.02.2023 passed in MA No. 88 of 2022 in OA No. 319 of 2022 on the file of the Hon'ble DRT-II, Hyderabad and pass any other order/s as this Hon'ble Appellate Tribunal may deem fit and proper in the facts of the case.

And Your petitioners as in duty bound shall ever pray.”

6. It is well settled proposition of law that the expression 'sufficient cause' should receive liberal consideration so as to advance the cause of justice. However, aforesaid legal principle does not dispense with the requirement of at least furnishing reasons.

7. In the instant case, from a perusal of the application filed by the petitioner before the Debts Recovery Appellate Tribunal, it is evident that the petitioner has miserably failed to show any cause much less sufficient cause for filing an appeal beyond the period of limitation.

8. Instead of explaining the delay caused in filing the appeal, the petitioner in para 3 of the application has made an

incorrect statement of fact that the appeal is barred by only 5 days whereas the appeal is admittedly barred by 311 days. The order dated 11.03.2024 passed by the Debts Recovery Appellate Tribunal neither suffers from any jurisdictional infirmity nor any error apparent on the face of the record warranting interference of this Court in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India.

9. In the result, the Writ Petition is dismissed.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

SD/-K. SREE RAMA MURTHY  
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. One CC to SRI P.ACHUT RAMA SHASTRY, Advocate [OPUC]
2. Two CD Copies

PSK.

BS

KS

HIGH COURT

HC,J

&

JAK,J

DATED:30/07/2024

ORDER

WP.No.18934 of 2024



DISMISSING THE WRIT PETITION  
WITHOUT COSTS.

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27/8/24