

IN THE COURT OF DISTRICT JUDGE, LUCKNOW

Misc Civil Appeal .No. of 2019

Rati Ram, aged about 42 years, son of late Moti Lal, resident of 5/8 Sector-I Aliganj Colony, P.S.Aliganj, Lucknow.

.....Appellant

Versus

1. State of Uttar Pradesh, through Estate Officer, Civil Secretariat, Lucknow.
2. Prescribed Authority Estate Department, 104-Jawahar Bhawan, Lucknow.

.....Respondents

APPLICATION UNDER SECTION 5 INDIAN LIMITATION ACT FOR CONDONATION OF DELAY IN FILING THE APPEAL

The applicant most humbly and respectfully submits as under:-

1. That the learned Prescribed Authority has initiated the eviction proceeding under Section 4(1) of UP Act 22 of 1972 against the applicant without serving the mandatory notice to the applicant.
2. That without proceeding the case ex-parte against the applicant the learned Prescribed Authority in most arbitrary manner passed the eviction order dated 31.12.2018 though the alleged notice under Section 4(1) of the Act was issued on 05.12.2018 fixing 21.12.2018 for showcause as such there was no occasion to pass the eviction order ex-parte on 21.12.2018 itself.

3. That the eviction order dated 31.12.2018 was lying in the premises of the deponent when he came to look after his family on 07.02.2019 after obtaining permission from Kumbh duty at Prayagraj as such the applicant could not file the appeal within prescribed period of limitation upto 15.01.2019.
4. That the delay in filing the appeal from 16.01.2019 to 07.02.2019 (22 days) deserves to be condone as the applicant for the first time on 07.02.2019 came to know about the eviction order.
5. That the delay in filing the appeal is not intentional or malafide but the situation was beyond the control of the applicant and the bonafide mistake deserves to be condone as otherwise the applicant will suffer irreparable injury.

PRAYER

It is, therefore, most respectfully prayed that the Hon'ble Court be pleased to condone the delay in filing the appeal from 16.01.2019 to 07.02.2019 as otherwise the applicant will suffer irreparable injury.

The Applicant shall ever pray for this act of kindness.

Lucknow

Dated:08.02.2019

(x)

Advocate

Counsel for Applicant

IN THE COURT OF DISTRICT JUDGE, LUCKNOW

Misc Civil Appeal .No. of 2019

Rati Ram

.....Appellant

Versus

State of Uttar Pradesh and another

.....Respondents

AFFIDAVIT IN SUPPORT OF APPLICATION UNDER SECTION 5 INDIAN LIMITATION ACT FOR CONDONATION OF DELAY IN FILING THE APPEAL

I, Rati Ram, aged about 42 years, son of late Moti Lal, resident of 5/8 Sector-I Aliganj Colony, P.S.Aliganj, Lucknow, do hereby solemnly affirm and state on oath as under:-

1. That the deponent is appellant himself as such he is fully conversant with the facts deposed.
2. That the contents of para 1 to 5 of the application are true to my personal knowledge.

Lucknow

Dated:08.02.2019

Deponent

VERIFICATION

I, the deponent do hereby verify that the contents of para 1 & 2 of the affidavit are true to my personal knowledge.

Signed and verified on this 8th day of February 2019 at Lucknow.

Lucknow

Dated:08.02.2019

Deponent

I identify the deponent who has signed before me.

Advocate

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1. State of Uttar Pradesh, through Estate Officer, Civil Secretariat, Lucknow.
2. Prescribed Authority Estate Department, 104-Jawahar Bhawan, Lucknow.

.....Respondents

APPLICATION UNDER SECTION 5 INDIAN LIMITATION ACT FOR CONDONATION OF DELAY IN FILING THE APPEAL

The applicant most humbly and respectfully submits as under:-

1. That the learned Prescribed Authority has initiated the proceeding for damages under Section 7(1) of UP Act 22 of 1972 against the applicant without serving the mandatory notice to the applicant.
2. That without proceeding the case ex-parte against the applicant the learned Prescribed Authority in most arbitrary manner passed the eviction order dated 31.12.2018 though the alleged notice under Section 4(1) of the Act was issued on 05.12.2018 fixing 21.12.2018 for showcause as such there was no occasion to pass the eviction order ex-parte on 21.12.2018 itself.

3. That the eviction order dated 31.12.2018 was lying in the premises of the deponent when he came to look after his family on 07.02.2019 after obtaining permission from Kumbh duty at Prayagraj as such the applicant could not file the appeal within prescribed period of limitation upto 15.01.2019.
4. That the delay in filing the appeal from 16.01.2019 to 07.02.2019 (22 days) deserves to be condone as the applicant for the first time on 07.02.2019 came to know about the eviction order.
5. That the delay in filing the appeal is not intentional or malafide but the situation was beyond the control of the applicant and the bonafide mistake deserves to be condone as otherwise the applicant will suffer irreparable injury.

PRAYER

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Advocate

Counsel for Applicant

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