



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8779 OF 2026

Yogesh Babanrao Salake

...Petitioner

Versus

1. The State of Maharashtra
Through its Principal Secretary,
Co-operative, Marketing and Textile Department,
Mantralaya, Mumbai.
2. The Commissioner for Co-operation,
Maharashtra State, Pune.
3. The Divisional Joint Registrar,
Co-operative Societies, Pune Division, Pune.
4. The Deputy Registrar, Co-operative Societies
(Perseva), Pune District Urban Cooperative Bank
Association Ltd., Pune.
5. Navnath Yashwant Jagtap,
6. The Manager,
Baramati Cooperative Bank Ltd,
Baramati, Tq. Baramati, Dist. Pune.
7. Samarth Enterprises,
Through Partner,
Mahesh Devidas Raskar
8. Ganesh Ramesh Todkar
9. Yogesh Devidas Raskar
10. Sandesh Ashok Shelar
11. Sambhaji Kishan Kurhe

12. Sunanda Devidas Raskar

13. Machindra Vishnu Raskar

14. Rajkarna Ramesh Todkar

...Respondents

...

Advocate for Petitioner : Mr. V.P. Latange

AGP for Respondent Nos. 1 to 4 : Ms. Vaishali Chaudhari

Advocate for Respondent Nos. 5 & 6 : Mr. P.K. Palve

...

CORAM : MANJUSHA DESHPANDE, J.

DATE : 15TH SEPTEMBER, 2026

PER COURT :

1. The Petitioner who is a guarantor to the loan disbursed by the Baramati Co-operative Bank Limited in favour of Respondent nos. 8 and 9 who are the partners in Respondent no. 7 – Samarth Enterprises.

2. The original borrowers have availed cash credit loan facility of Rs. 1,50,00,000/- in the year 2016-2017. The said cash credit loan account was in operation at the time of sanction of subsequent loan on 26.08.2021.

3. Learned Advocate for the Petitioner Mr. Latange, submits that the bank had sanctioned a term of loan of Rs. 2 Crores as well as extended cash credit facility of Rs. 2 Crores by the sanctioned order dated 26.08.2021. This amount was in addition to the already sanctioned

cash credit facility amounting to Rs. 1,50,00,000/- that was availed by the borrowers in the year 2016-2017. According to him, the subsequent sanction of cash credit loan of Rs. 2 Crores was an extension of the facility by only Rs. 50,00,000/-. Therefore, according to him, bank had granted term loan of Rs. 2 Crores and extension of credit facility of Rs. 50,00,000/- on 26.08.2021. The Petitioner signed the necessary documents for sanction of loan as a guarantor on 26.08.2021, only to the extent of term loan of Rs. 2 Crores and cash credit facility of Rs. 50 Lakhs. Apart from this, the Petitioner is not concerned with any other cash credit facility or loan that has sanctioned in favour of Respondent nos. 7 to 9.

4. It is submitted that since the borrower defaulted in repayment of the loan within the stipulated period, the bank filed two separate Applications; one for recovery of term loan and another for the cash credit loan. In the proceedings initiated under Section 101 of the Maharashtra Co-operative Societies, Act, Respondent no. 4 has issued recovery certificates dated 01.09.2022, on two separate Application nos. 373 and 374, without any notice to the Petitioner and without ascertaining the necessary documents, the order impugned has been passed in complete violation of principles of natural justice.

5. It is submitted that the recovery certificate is vitiated for the reason that at no point of time the Petitioner was surety / guarantor of cash credit loan of Rs. 1,50,00,000/- to the original borrowers, since the bank did not disclose of these facts before Respondent no. 4 while issuing the recovery certificate. Since no notice was issued to the Petitioner, he was ignorant about the proceedings and issuance of recovery certificate, the Petitioner got knowledge about the recovery certificate only at the time of the proceedings for fixing upset price was initiated for conducting the auction. Therefore, the Petitioner has raised objection that he was not liable to be arrayed for the recovery of pre-existing cash credit loan of Rs. 1,50,00,000/-. In spite of raising the objection, the authority has proceeded to fix the upset price of the property of the Petitioners situated at land Gat no. 53 and Gat no. 69 at Village Javla, Taluka Parner, District Ahmednagar.

6. Being aggrieved by the fixing of the upset price as well as issuance of recovery certificate, the Petitioner has filed Revision Application before Respondent no. 3, challenging the issuance of recovery certificate dated 01.09.2022. It is submitted that on account of ignorance of the issuance of recovery certificate, there was some delay in preferring the Revision Application under Section 154 of the Maharashtra

Co-operative Societies Act. Therefore, the Petitioner has filed a separate Application for condonation of delay along with the Revision Application filed under Section 154 of the Co-operative Societies, Act, being Miscellaneous Civil Application nos. 117/2026 and 118/2026, challenging the two recovery certificates issued pursuant to Application no. 374 / Section 101 / 2022-2023 and 373.

7. It is submitted that Respondent no. 3 without appreciating the factual and legal aspects involved in the matter has rejected the Application for condonation of delay in a cryptic and unreasoned order causing injustice to the Petitioner, thereby depriving him from presenting his case on merit. Respondent no. 3 has failed to appreciate that the recovery certificate itself were issued without any notice to the Petitioner. Therefore, there was a delay in filing the Revision Application. The delay so caused in filing the Revision Application was justifiable and has been accordingly, appropriately mentioned in the Application for condonation of delay.

8. Mr. Latange, submits that after the rejection of his Application for condonation of delay on 17.07.2026, by Respondent no. 3, a proclamation is issued for auction of his property as per Rule 107 (11) (c) of the Maharashtra Co-operative Societies, Act. It is submitted

that the proclamation of the auction of the property of the Petitioner is patently illegal, since it is based on the attachment pursuant to the illegal recovery certificate issued by Respondent no. 4. Therefore, the proclamation published on 17.06.2026, deserves to be stalled by issuing necessary directions to Respondent no. 5.

9. He further submitted that in fact, the Petitioner had filed a Regular Civil Suit no. 1015/2026, before the learned Civil Judge, Junior Division, Parner, praying for restraining the concerned Authorities from taking possession and proceeding with the further auction of the property of the Petitioner. In the Regular Civil Suit filed by him, he had also filed an Application below Exhibit 5 for temporary injunction. Though, initially a status quo order was passed in his favour, subsequently after the bank had filed an Application below Exhibit 23 praying for rejection of plaint under Order VII Rule 11 of the Code of Civil Procedure. The learned Civil Judge, Junior Division, Parner, allowed the Application of the Respondent / Bank, rejecting the plaint in RCS no. 1015/2025.

10. The Petitioner has raised challenge to the said order in Regular Civil Appeal no. 130/2026, before Adhoc District Judge – 4, Ahmednagar, along with the Application below Exhibit 5 seeking stay to the proclamation of sale of the suit property proposed to be held on

23.07.2026. However, learned District Judge, without appreciating facts and circumstances has rejected the Application below Exhibit 5. Therefore, left with no other remedy, the Petitioner has approached this Court raising challenge to the rejection of the Application for condonation of delay. He submits that although from the document filed by the Respondent, it is evident that the properties of the borrowers itself are sufficient to satisfy the amount of loan disbursed to the borrowers, in spite of that the Respondent Authorities are proceeding against the property of the Petitioner who is a guarantor. He further submits that after the Application for condonation of delay is allowed, he is ready to deposit 50% of the amount that comes to his share as a guarantor. He, therefore, submits that the order passed by the Divisional Joint Registrar, Co-operative Societies, Pune, is deserves to be quashed and set aside by directing Respondent no. 3 to hear the Revision Application of the Petitioner on its own merits.

11. Per contra, learned Advocate Mr. Palve, appearing for Respondent nos. 5 and 6, submitted that the Petitioner in fact was given sufficient opportunity before the Recovery Officer to put forth his case. In spite of issuance of notice, the Petitioner has chosen to remain absent. The Respondent / Bank is bound to recover the loan disbursed to the

borrowers to keep the business of the bank afloat. If the loan disbursed are not recovered, the working of the bank would be hampered as it would not be in a position to disburse further loan facilities to other members. The recovery of loan from the borrowers is necessary for upkeep and continuous of business of the bank. He further submitted that it is a prerogative of the bank against whom to proceed for recovery of the loan sanctioned by the bank. The Petitioner cannot insist that the bank should first exercise its option for recovery of loan against the borrowers only. Relying on the communication addressed to him by Respondent nos. 6 and 7, i.e. the Recovery Officers of the bank, he submitted till date, the bank has recovered an amount of Rs. 3,29,162/- and it has still to recover Rs. 310.43/- Lakhs by auctioning the properties of the borrowers as well as guarantors. It is submitted that the Petitioner has not come before this Court with clean hands. Although he is claiming that he has not been issued any notice before issuing the recovery certificate, is totally false and misleading. The Divisional Joint Registrar in his order has clearly observed that the Petitioner was in fact given a notice of hearing. The public notice as well as the notice of hearing regarding the upset price were in fact issued to the Petitioner which is supported by the Registered Post Acknowledgment which is placed on record. The Revisional Authority, therefore, has rightly held that he is not satisfied

with the reasons for delay mentioned for the Application.

12. He submits that even before the Revisional Authority, the Petitioner has not stated about the pending proceedings before the Civil Court. He has suppressed that he had filed civil proceedings. Therefore, on the ground of suppression of facts, the present Writ Petition deserves to be dismissed. He would rely on the decision of this Court in ***Noyal Madhukar Dethe and Another Versus Laxmibai Dada Alias Dadu Makasare***, passed in Writ Petition no. 7828/2022, wherein this Court has strongly deprecated the practice of suppression of facts by the Applicant who was seeking condonation of delay, where this Court has taken a view that in order to exercise discretion in cases of condonation of delay, there has to be satisfactory explanation given by the Applicant for exercising such discretion. In absence of sufficient explanation, such Application does not deserve any consideration. He further submits that merely with an intention to prolong the recovery proceedings filed by the bank, the Petitioner is resorting to delaying tactics by filing proceedings one after the other, which does not deserve consideration and out rightly deserves to be dismissed.

13. I have heard the respective Advocates and also perused the documents placed on record with their assistance.

14. The status of the parties as well as the fact about disbursement of loan to the borrowers i.e. Respondent nos. 7 to 9, is not in dispute. It is also not in dispute that the Petitioner is one of the guarantors to the loan and cash credit facility extended to the borrowers. The Petitioner has raised a dispute that he is not a guarantor to the loan as well as cash credit facility given to the borrowers in the year 2016-2017, but he is guarantor only to the extent of term loan and cash credit facility sanctioned in favour of Respondent nos. 7 to 9, on 26.08.2021, which is disputed by the Respondent / Bank.

15. In my opinion, it would not be appropriate to go into the disputed facts, since the challenge before this Court is confined to the rejection of Application for condonation of delay. Although the Petitioner claims that being a guarantor, he was entitled for a notice in the recovery proceedings initiated by the bank. The observation made in the order passed by the Divisional Joint Registrar, rejecting the Application for condonation of delay clearly mentions that there is a delay of 3 years 5 months and 15 days in filing the Revision Application which is not satisfactorily explained with supporting documents.

16. It is also observed that the Recovery Officer has produced on record the registered post acknowledgment receipts of the notices of

hearing issued to the Petitioner in recovering proceedings for the auction notice as well as the notice for hearing for determination of the upset price. The registered post acknowledgment were produced before the Divisional Joint Registrar. Therefore, the claim of the Petitioner about the ignorance of the orders passed by Respondent no. 4 and subsequent proceedings up to to the determination of upset price stand falsified.

17. The Revisional Authority has recorded the aforementioned observations after verifying the original acknowledgment receipt produced by the Recovery Officer. He has also observed that the Application does not state about the number of days delay that has occurred and it is also not supported with sufficient cause. The Divisional Joint Registrar after taking into consideration, the documents before him has passed the order impugned by rejecting the Application for condonation of delay.

18. The Petitioner is claiming discretionary relief for condonation of delay which can be granted only after satisfaction of the Court / Authority that the reason for delay is *bona fide* and not intentional. In the instant case, while seeking condonation of delay before the Revisional Authority, the Petitioner has not disclosed all the true and correct facts. The fact that the Petitioner has filed Regular Civil Suit no.

1015/2026, before the learned Civil Judge, Senior Division, Parner, for restraining the Respondents / Authorities from taking possession and proceeding further with the auction of the property of the Petitioner, has been suppressed. The Petitioner had filed a suit with an Application below Exhibit 5 for temporary injunction and an Application under Order VII Rule 11 of the Code of Civil Procedure, below Exhibit 23 has been filed by the Bank for rejection of Plaint which was allowed by the learned Civil Judge, Junior Division, Parner, against which the Petitioner has preferred Regular Civil Appeal no. 130/2026, before the learned Adhoc District Judge – 4, Ahmednagar. All these facts about the parallel proceedings and the alternate remedy availed by the Petitioner has been totally suppressed by the Petitioner before the Revisional Authority in the Application for condonation of delay. Thus based on the material that was placed before the Divisional Joint Registrar, the order refusing to condone the delay has been passed by the Divisional Joint Registrar. For the first time before this Court, the Petitioner has disclosed that he has filed a suit and the Respondent no. 6 / Bank had filed an Application for rejection of Plaint which has been allowed. This conduct of the Petitioner does not in any way demonstrate *bona fides* of the Petitioner.

19. On the other hand the Petitioner is claiming that he has no

knowledge about the issuance of Recovery Certificate under Section 101 of the Act, which has been totally disproved by the Respondent/Bank, before the Joint Registrar by producing acknowledgment of service of notice to the Petitioner. The delay which is sought to be condoned is 03 years 05 months and 15 days, which is not supported by satisfactory explanation justifying the delay. From the submission made by the Advocate for the Respondent, it is evident that the Petitioner has not come with clean hands before the Revisional Authority and lacks *bona fides* which can be gathered from the conduct of the Petitioner. Therefore, the Petitioner is not entitled for the condonation of delay due to lack of *bona fides* and suppression of material facts.

20. As a result, the Writ Petition is dismissed by upholding the order dated 17.06.2026, passed by the Divisional Joint Registrar, Co-operative Societies Pune, in Miscellaneous Application nos. 117/2026 and 118/2026.

(MANJUSHA DESHPANDE, J.)