



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7892 OF 2026

M/S. P. D. And Company Through ...Petitioner
Partner

V/s.

Panvel Industrial Co Op. Estate Ltd ...Respondents
Through Chairman and Ors

Ms. Aditi Naikare *with Mr. Pradeep Thorat for Petitioner*

Mr. Omkar Nagwekar *for Respondent No. 1.*

Mr. Omkar Kulkarni *for Respondent Nos. 2a and 2b.*

CORAM: SANDEEP V. MARNE, J.

DATED: 16 SEPTEMBER 2026.

P.C.:

1) The Petitioner challenges order dated 22 August 2025 passed by the Maharashtra State Co-operative Appellate Court, Mumbai (**Appellate Court**) rejecting the delay condonation Application in filing substantive appeal against the judgment and order dated 9 May 2024 passed by the Co-operative Court, Raigad (**Co-operative Court**).

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2) I have heard Ms. Naikare, the learned counsel appearing for the Petitioner, Mr. Nagwekar, the learned counsel appearing for Respondent No. 1-society and Mr. Kulkarni, the learned counsel appearing for Respondent Nos. 2a and 2b. I have considered the submissions

canvassed by the learned counsel appearing for the parties. I have also perused the records of the case filed alongwith the Petition.

3) It appears that the plot in question was allotted to the partnership firm M/s P.D. and Company. The firm had three partners. It is the grouse of the two partners of the firm Kishor Nathuram Dandekar and Suhas Nathuram Dandekar that the third partner Mrs. Pooja Dipak Dandekar has unauthorisedly sold the plot to Respondent No. 2. Accordingly, the validity of the transaction was questioned in the dispute filed before the Co-operative Court. The dispute was prosecuted by Kishor and Suhas in their capacity as partners of the firm . It appears that Respondent No. 2 raised objection of maintainability of the dispute in the name of the firm without joining the three partners. However, though the dispute is dismissed by judgment and order dated 9 May 2024, the learned Judge of the Co-operative Court did not dismiss the same on the ground of maintainability. When it came to filing of Appeal against the judgment and order dated 9 May 2024, it appears that Suhas Nathuram Dandekar was not available for filing of Appeal and accordingly only Kishor Nathuram Dandekar filed an Appeal alongwith application for condonation of delay. There was delay of about five months in filing the Appeal. The delay was sought to be explained by Kishor Nathuram Dandekar contending that he suffers from various ailments on account of undergoing hip joint operation in the year 2005 and he is not able to stand and walk properly. So far as the other partner Suhas is concerned, Kishor took a stand that Suhas and his wife underwent cataract operations on account of which he could not prefer the Appeal within the prescribed time. The learned Judge of the Appellate Court has recorded

following findings while rejecting the Application for condonation of delay:

21. It is a fact that the applicant has not produced on record any medical papers regarding his admission in the hospital from the period 14/5/2024 till 17/12/2018. Even if for the sake of argument, it is presumed that applicant No.1 was suffering from various ailments and illness, but the second partner namely Suhas Nathuram Dandekar who is another partner of the partnership firm M/s. P.D. and Company was available for filing the appeal in time. The applicant has not explained anywhere as to why the appeal could not be filed by the second partner namely Suhas Nathuram Dandekar. The other partner of the firm namely Suhas Nathuram Dandekar has produced on record his as well as his wife's cataract operation papers along with list dated 17/02/2025. A judicial note can be taken of the fact that due to advanced technology nowadays cataract operation has become a minor operation and a person even does not require to get admitted even for a day in the hospital for the said operation. Generally, the said operation is performed within one or two hours and the patient is discharged by the doctors. Hence, the ground of cataract operation of either Suhas Dandekar or his wife does not provide any sufficient grounds to condone the delay. Even after the operation, within seven days a person who has undergone cataract operation can start his daily pursuits. From the medical papers produced by the other partner of the firm M/s. P.D. and Company namely Suhas Dandekar, it is seen that he has undergone operation on 10/02/2025 and was discharged on the same date. The appeal came to be filed in the month of December 2024 and the other partner of the firm namely Suhas Dandekar has not brought on record a single document to show that he was unable to file the appeal in time due to some medical grounds. The medical papers of Suhas Dandekar for the period of 10/02/2025 are not helpful to him to say that he was prevented from his illness from filing the appeal in time. Thus, the grounds which are made out by the applicants in their application are not sufficient to condone the delay.

4) The Appellate Court has thus accepted the contention of Petitioner-Kishor suffering from ailments but questioned non-filing of Appeal by Suhas. However, some documents were produced in respect of ailments suffered by Suhas and his wife. Though, the learned Judge of the Co-operative Appellate Court has held that due to technological advancements, a person undergoing cataract operation does not suffer from any disability for a long time for following daily pursuits, the said

aspect could have been taken into consideration for imposition of costs while condoning the delay. Once ailments suffered by the Petitioner-Kishor and by Suhas and his wife is accepted, insignificant delay of five months in filing the Appeal ought to have been condoned. There is no denial to the position that both Kishor and Suhas are senior citizens. They are currently age 72 and 70 years. In that view of the matter, ailments of Kishor and Suhas and his wife preventing them from filing the Appeal within prescribed time cannot be discarded altogether. In my view therefore, the Appellate Court has erred in rejecting the Application for condonation of delay. In the facts and circumstances of the present case, delay in filing the Appeal ought to have been condoned by imposition of costs.

5) Mr. Kulkarni questions maintainability of the present Petition since the same is filed by only one partner of the firm. However, as observed above, the dispute is not rejected on the ground of maintainability. The issue of maintainability of dispute at the instance of only two partners of the firm can be decided by the Appellate Court as and when the Appeal is heard on merits. All contentions of parties in that regard are expressly kept open.

6) I accordingly proceed to pass the following order:-

(i) Order dated 22 August 2025 passed by the Co-operative Appellate Court in Miscellaneous Application No. 1 of 2025 is set aside.

(ii) Miscellaneous Application No. 1 of 2025 is allowed in terms of prayers made therein by condoning the delay in filing the Appeal.

(iii) The Co-operative Court shall register the Appeal and proceed to decide the same on its own merits.

(iv) Petitioner shall pay to Respondent No.2 cost of Rs. 1 lakh within a period of four weeks.

(v) Payment of cost shall be condition precedent for registration of the Appeal.

7) With the above direction, Writ Petition is allowed and **disposed of.**

[SANDEEP V. MARNE, J.]