

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6670 OF 2012

**Nashik District Central Co-operative
Bank Ltd. Nashik : Petitioner
versus
Pushpati Hire Nagari Sahakari Pat
Sanshtha Mydt. And ors. : Respondents.**

WRIT PETITION NO.5748 OF 2014

**Nashik District Central Co-operative
Bank Ltd. Nashik : Petitioner
versus
Manmad Vibhag Falbhag and Bhajipala
Kharedi Vikri Sahakari Sanstha Ltd. & ors. : Respondents.**

WRIT PETITION NO.5749 OF 2014

**Nashik District Central Co-operative
Bank Ltd. Nashik : Petitioner
versus
Vinchur Nagar Sahakari Patsanstha Mydt
and ors. : Respondents.**

WRIT PETITION NO.5750 OF 2014

**Nashik District Central Co-operative
Bank Ltd. Nashik : Petitioner
versus
Boat Powerloom Owners Sahakari
Society Ltd. and ors. : Respondents.**

WRIT PETITION STAMP NO.13573 OF 2011

**Nashik District Central Co-operative
Bank Ltd. Nashik : Petitioner
versus
Gurudatta Gramin Bigarsheti Sahakari
Patsanstha Mydt. And ors. : Respondents.**

Mr. A R Kapadnis for the Petitioners

Mr. Anilkumar Patil for the Respondent No.2 in WP Nos.6670/12 and 5749/14.

Mr. G T Kanchanpurkar for the Respondent Nos.

CORAM : R. M. SAVANT, J.

DATE : 14th July 2015

P.C.

1 The Writ Petition Stamp No.13573 of 2011, which is a companion matter, is not on board today. By consent of the learned counsel for the parties the same is taken up for hearing along with the companion Petitions.

2 The above Writ Petitions take exception to the orders all dated 13/12/2010 passed by the Member of the Maharashtra State Co-operative Appellate Court, Mumbai by which order the Applications filed by the Petitioner above-named for condonation of delay came to be rejected.

3 The Petitioner which is the Nashik District Central Co-operative Bank Ltd had filed the Disputes in question against the Respondent No.1 Societies for recovery of the amounts which it had advanced by way of loans. The said Disputes came to be partly decreed. In so far as Writ Petition No.6670 of 2012 is concerned, the Co-operative Court passed an Award in the sum of Rs.2,00,000/- with interest thereon at 14% p.a. with six monthly rest from the date of disbursement i.e. 1/10/1991 till realization. The other Disputes were also similarly decreed by the Co-operative Court. The Co-operative Court has

also issued directions which are contained in clause (iv) of the operative part of the orders of the Co-operative Court as regards the manner in which the repayment of the loans was to be done by the Respondent No.1 to each of the Petitions herein i.e. the Opponent No.1 to each of the Dispute. The Petitioner thereafter proposed to file Appeals against the said Awards of the Co-operative Court dated 20/02/2008, however, since the Appeals were belated to the extent mentioned in the table below, the Petitioner filed Applications for condonation of delay in each of the Appeals :

CHART SHOWING THE EXTENT OF DELAY IN FILING THE APPEALS

Sr.No.	Writ Petition No.	Parties Name	Delay
1	6670/2012	Pushpati Hire Nagari Sahakari Path Sanstha	668 days
2	5749/2014	Vinchur Nagar Sahakari Path Sanstha Maryadit	662 days
3	5748/2014	Manmad Vibhagiy Falbaug and Bhajipala Kharedi Vikri Sahakari Sanstha	613 days
4	5750/2014	Boot Powerloom Owners Sahakari Society	442 days
5	(Stamp) 13573/2011	Gurudatta Gramin Bigarsheti Sahakari path Sanstha Maryadit	1 year 18 days.

The delay which had occurred in filing the Appeals as above was sought to be explained by the Petitioner in each of the Petition by contending that since the scheme known as Samopchar Karj Paratphed Yojana was initiated by the

Petitioner Bank, the Petitioner Bank was under a bonafide impression that the Respondent No.1 Societies would avail the benefit of the said scheme and come forward for settlement, as the pending cases were also covered by the said scheme. It is contended on behalf of the Petitioner that an oral assurance was given on behalf of the Respondent No.1 in each of the Petitions but in fact no approach was made to the Petitioner Bank to avail the benefit of the said scheme. It is further contended that ultimately realizing that the Respondent No.1 Societies would not come forward to take benefit of the said scheme, that the Petitioner took a decision to file the Appeals against the part decreeing of the Disputes which has resulted in the delay to the extent mentioned herein above occurring in filing of the Appeals.

4 The said Applications filed by the Petitioner in each of the Appeals were replied to on behalf of the Respondent No.1 Societies to each of the Appeals and the case made out therein was sought to be questioned.

5 The Co-operative Appellate Court considered the said Applications and has by the impugned orders dated 13/12/2010 rejected the said Applications and thereby refused to condone the delay. The reasons put-forth by the Petitioner did not commend acceptance to the Co-operative Appellate Court . The Co-operative Appellate Court was of the view that the approach of the Petitioner was casual and negligent and that the delay caused cannot be

justified by the Petitioner on the pretext that it was under the belief that the Respondent No.1 Societies would take the advantage of the said scheme. The Co-operative Appellate Court observed that the Respondent No.1 to each of the Appeals had not shown its willingness to settle the dues under the said scheme and therefore the Petitioner was required to file Appeals within the time stipulated for the same.

6 In so far as matters of condonation of delay are concerned, it is well settled that a highly technical and pedantic approach should be eschewed and an approach which furthers the cause of substantial justice should be adopted. However, the application for condonation of delay has to be considered judiciously, the delay can only be condoned if a case for the same is made out. In the instant case, as rightly observed by the Co-operative Appellate Court, the Petitioner seems to place reliance on the said scheme which it had itself propounded for recovery of dues from the debtors by the debtors coming forward to settle the matters. In the absence of any willingness on the part of the debtor, it was required of the Petitioner which is a District Central Co-operative Bank to act with reasonable despatch if it was aggrieved by the Awards passed by the Co-operative Court. In my view, the ground made out by the Petitioner for seeking condonation of delay which has occurred in filing the Appeals does not inspire confidence and has been urged somehow to get over the fact that there is a huge delay in filing the Appeals. It is also

required to be borne in mind that the Respondent No.1 Societies are under liquidation and before the Co-operative Court as well as the Co-operative Appellate Court the liquidator was representing the Respondent No.1 Societies. Hence even considering the said fact the orders passed by the Co-operative Appellate Court rejecting the Applications for condonation of delay cannot be faulted with and do not merit any interference in the writ jurisdiction of this Court under Article 227 of the Constitution of India. The above Writ Petitions are accordingly dismissed.

[R.M.SAVANT, J]