

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6496 OF 2015
WITH
WRIT PETITION NO.6497 OF 2015
WITH
WRIT PETITION ST.NO.17823 OF 2015
WITH
WRIT PETITION ST.NO.17844 OF 2015**

**Ratnakar Govind Dharmadhikari
Vs.**

..Petitioner

**Learned Division Joint Registrar,
Co-operative Societies & Ors.**

..Respondents

**Mr. Manoj Patil for the Petitioner
Ms Gauri Rao AGP for the Respondents**

**CORAM : R. M. SAVANT, J.
DATE : 15th July, 2015**

P.C.

1 The Writ Jurisdiction of this court is invoked by the Petitioner challenging the identical orders dated 24-4-2015 passed by the Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur, by which order, the applications for condonation of delay filed by the Petitioner came to be rejected.

2 The said applications for condonation of delay were filed in the Revision Applications filed by the Petitioners against the auction sale and the sale certificate issued by the Respondent No.3 Credit Society. The Petitioner

was a borrower of the Respondent No.3 Credit Society. On default being committed by the Petitioner in the repayment of the loans that proceedings under Section 101 of the Maharashtra Co-operative Societies Act, came to be initiated which culminated in the recovery certificate being issued in favour of the Respondent No.3 Credit Society as long back on 29-1-2004. It seems that the Petitioner challenged the said Recovery Certificate by way of a Revision Application under Section 154 of the said Act. However, the Revision Application was not entertained in view of the fact that the Petitioner had not complied with the provisions of Section 154(2A) of the said Act in the matter of making the statutory predeposit for the Revision Applications to be entertained. The Revision Applications filed by the Petitioner accordingly came to be rejected in the year 2004 itself. It is thereafter that the Respondent No.3 Credit Society after following the gamut of attachment of the property, issuance of auction notice, auctioning the property, issued the sale certificate in favour of the successful auction bidder.

3 It appears that the auction took place on 16-10-2006 and the sale certificate has been issued on 25-4-2007 and the sale deed pursuant thereto came to be executed in the year 2012. It is long thereafter that the instant Revision Applications were filed by the Petitioner. In view of the fact that the Revision Applications were belated, the Petitioner filed the instant applications for condonation of delay and the ground made out was that the Petitioner had

met with an accident in the year 2004 and therefore could not approach the Revisionary Authority earlier. The said applications filed by the Petitioner was opposed to on behalf of the Respondent No.3 Credit Society who filed its reply. The Revisionary Authority considered the applications filed by the Petitioner and as indicated above has by the impugned orders dated 24-4-2015 rejected the said applications. The Revisionary Authority has tested the case of the Petitioner and after doing so came to a conclusion that the reason put forth by the Petitioner that he had met with an accident in the year 2004 could not be accepted having regard to the fact that the Petitioner had filed the Revision Application challenging the certificate issued under Section 101 of the said Act in the year 2004 itself.

4 The Learned Counsel appearing on behalf of the Petitioner sought to contend that the auction sale has been conducted in violation of the rules in as much as the reserve price has not been fixed by following the procedure as prescribed. The Learned Counsel would contend that the Petitioner has an excellent case if the Revision Applications are heard on merits. The Learned Counsel sought to place reliance on the judgment of the Apex Court in the matter of **Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy & Ors.**¹

5 In my view, it is not possible to accept the contention urged on

1 2013 ALL SCR 3236

behalf of the Petitioner especially having regard to the fact that the auction sale has taken place as long back as in the year 2006 and obviously prior thereto the auction notice must have been issued. It is thereafter that the sale certificate came to be issued in the year 2007 and the sale deed has now being executed in favour of the successful bidder in the year 2012. It is well settled that in matters of condonation of delay one of the considerations is the prejudice that is likely to be caused to the other side. In the instant case, if the delay is condoned at this length of time that is long after the events have taken place, the same would obviously prejudice the Respondent No.3 Credit Society as also the successful bidder. The reliance placed by the Learned Counsel on the judgment of the Apex Court on Esha Bhattachrjee's case would not further the case of the Petitioner having regard to the facts as afore stated.

6 In that view of the matter no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petitions are accordingly dismissed.

[R.M.SAVANT, J]