

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2578 OF 2014
IN
WRIT PETITION NO.3525 OF 2012

Shri. Rajendra Tukaram Lad

.. Applicant

IN THE MATTER BETWEEN

Shri. Rajendra Tukaram Lad

.. Petitioner

Versus

Radhai Mahila Gramin Bigarsheti

Sahakari Patsanstha Ltd. and others

.. Respondents

Shri. Bharati Gaikwad i/by M/s. Jay & Co., for the Applicant.

Shri. Datta Pawar i/by M/s. Onash Legus, for the Respondent Nos.1 & 2.

CORAM : R.M. SAVANT, J.

DATE : 07th APRIL, 2015

PC.

1. The above Civil Application has been filed for restoration of the above Writ Petition which has been dismissed for non-prosecution on account of the non-appearance of the advocate for the Petitioner on 27th September, 2012. The order passed on the said day records that the Learned Advocate who was appearing for the Petitioner had remained absent on the earlier occasion also and it is in the said context that the Learned Single Judge was required to dismiss the Petition for non-

prosecution. The above Civil Application has been filed on 16.07.2014 i.e. almost after a period of two years after the dismissal of the above Petition. The reasons for the delay find place in paragraphs 5 & 6 of the Civil Application. The sum and substance of the reasons is that during the hearing of the Appeal which was filed by the Respondent No.1 against the order restoring the dispute in question to file, that a statement came to be made on behalf of the Respondent No.1 that the above Writ Petition has been dismissed and that his how the Petitioner acquired knowledge of the dismissal of the above Petition. In my view, the said reasons mentioned in paragraphs 5 & 6 can hardly justify the said huge delay of almost 2 years in filing the Civil Application for restoration.

2. Apart from this, it is required to be noted that the above Petition was filed taking exception to the manner in which the auction was conducted of the Petitioner's property in the execution of the Award passed by the Co-operative Court. It is required to be noted that the Award of which execution was sought by the Respondent No.1 has been set aside by the Co-operative Court on the application made by the Applicant above named and the Dispute in question was restored to file. The said order of the Co-operative Court setting aside the Award was challenged by the Respondent No.1 before the Co-operative Appellate Court. The Co-operative Appellate Court has confirmed the order passed by the Co-

operative Court. The order passed by the Co-operative Appellate Court was taken exception to by the Respondent No.1 by way of Writ Petition No.8072 of 2014. The said Writ Petition came to be dismissed by a Learned Single Judge of this Court, in view of the concurrent orders passed by the Co-operative Court and the Co-operative Appellate Court. Hence, the consequence of the said concurrent orders is that the dispute in question is restored to file and the Award of which execution has been sought is set aside. Hence, for the aforesaid reasons, it is not necessary to restore the above Writ Petition. The Civil Application is accordingly rejected.

[R.M. SAVANT, J]