

THE HON'BLE SRI JUSTICE DILIP B.BHOSALE

AND

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 13873 of 2014

ORDER: (per the Hon'ble Sri Justice Dilip B.Bhosale)

This writ petition challenges the following order, dated 28.02.2014:

“Counsel for the respondent is present. No representation for the appellant even though in the previous hearing there was representation. The application No.404 of 2003 is for the following reliefs.

“....It is therefore prayed that this Hon'ble Tribunal may be pleased to condone the delay of 853 days in filing the appeal under Section 19 of SARFAESI Act and pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the interest of justice.”

In view of my order dated 06.01.2014 in Appeal Nos.407 of 2013 and 408 of 2013, the Application No.404 of 2013 under Section 5 of the Limitation Act, is dismissed. Accordingly, the appeal is dismissed.”

It is apparent that the impugned order was passed by the appellate Tribunal in the absence of the petitioner.

Having regard thereto, learned counsel for the parties have agreed for the following order:

“The Order, dated 28.02.2014, is set aside. Petitioner's Application No.404 of 2013 is restored to file. The Tribunal is directed to consider and decide the application for condoning the

delay afresh on merits in accordance with law as expeditiously as possible and preferably within eight weeks from the date of receipt of this order. It is open to the parties to place all the materials including judgments of this Court and other High Courts, if any, in support of their contentions. It is made clear that we have not examined the merits of the case.

Writ petition is accordingly disposed of. No costs.

Consequently, miscellaneous petitions, if any, also stand disposed of.

B.BHOSALE,J

DILIP

A.RAMALINGESWARA RAO,J

Dt:29.01.2015

kdl