

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8269 OF 2014**

Bhagwan Mahadev Suryawanshi

..Petitioner

Vs.

Mohanrav Kadam Gramin Bigarsheti

Sahakari Patsanstha Kherade Wangi & Ors

..Respondents

Ms Shruti Kandoi i/b Mr. Umesh Mankapure for the Petitioner

CORAM : R. M. SAVANT, J.

DATE : 5th APRIL, 2016

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 28-2-2014 passed by the Maharashtra State Co-operative Appellate Court, Mumbai Bench at Pune, by which order, the application for condonation of delay being Misc Application No.82 of 2011 came to be rejected.

2 The Petitioner herein was the Respondent No.1 in Dispute bearing No.756 of 2011 filed by the Respondent No.1 Credit Society. The said Dispute was filed for recovery of an amount mentioned in the said Dispute. It seems that the summons were sent to the Petitioner herein by RPAD. The summons having not been claimed by the Petitioner, was held to be good service. The Petitioner did not participate in the said Dispute proceedings which ultimately culminated in the Award dated 16-4-2007 being passed by the Co-operative Court, Pune. After the said Award was passed three demand notices were

issued to the Petitioner. The Petitioner had received the said demand notices, inspite of the receipt of the demand notices since the Petitioner did not comply with the same, the Respondent No.1 filed execution proceedings in the year 2009. The Petitioner participated in the said execution proceedings and it is only after a warrant came to be issued against the Petitioner that the Petitioner ventured to file an Appeal against the said Award dated 16-4-2007 passed in the Dispute. The justification for the delay was that the Petitioner became aware of the Award after the notice in the execution was received by the Petitioner. The said reason given by the Petitioner did not commend acceptance to the Co-operative Appellate Court in the light of the antecedent facts which have been mentioned hereinabove. The Co-operative Appellate Court has accordingly by the impugned order rejected the said Misc Application.

3 In my view, having regard to the facts as stated hereinabove where the Petitioner had refused to accept the summons, where the Petitioner had not participated in the proceedings, as also in the light of the fact that inspite of demand notices, the Petitioner had chosen to file an Appeal after 5 years and 3 months after the Award came to be passed, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]