

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION ST.NO. 8638 OF 2016**

M/s Raman Hospital

..Petitioner

Vs.

Mahanagar Co-op Bank Ltd & ors

..Respondents

Mr. V. S. Kapse i/b Fast Track Legal for the Petitioner

Mr. B. G. Vaidya for the Respondent No.1

CORAM : R. M. SAVANT, J.

DATE : 1st APRIL, 2016

P.C.

1 The Order dated 29-2-2016 passed by the Maharashtra Co-operative Societies, Mumbai, dismissing the Appeal filed by the Petitioner, is taken exception to by way of the above Petition. The Appeal in question i.e. A.O. No.21 of 2016 was directed against the order dated 18-2-2016 passed by the Co-operative Court No.3, Mumbai, by which order the Co-operative Court refused to condone the delay in filing the application for setting aside the no WS order and for permitting the Petitioner i.e. the original Respondent No.1 to the dispute from filing his Written Statement. The reasons given by the Petitioner for the delay in filing the application and for not filing the Written Statement in the dispute in question did not commend acceptance to the courts below. Amongst the reasons given by the courts below for rejecting the application and thereafter the Appeal is the reason that the Petitioner herein made an appearance in the dispute for the first time on 18-1-2016. There is no

dispute about the fact that the said dispute has been kept for pronouncement of the Award.

2 After arguing for sometime, the Learned Counsel appearing for the Petitioner Mr. V. S. Kapse on instructions of the Petitioner would submit that the Petitioner would not press the above Petition but would be satisfied if the Petitioner is permitted to file his written submissions in the said dispute and that the same be directed to be considered by the Co-operative Court prior to it pronouncing the Award. Though the said request was opposed on behalf of the Respondent No.1, the Learned Counsel Mr. Vaidya however, ultimately left it to this Court.

3 In my view, though by the impugned order, the Petitioner has been denied the extension of time to file the Written Statement, the Petitioner can be permitted to file his written submissions in the dispute. However, the said written submissions would be filed having regard to the fact that the Petitioner has not filed his Written Statement and therefore nothing by way of pleadings or evidence would be mentioned in the written submissions. However, the written submissions can contain the submissions as regards the evidence adduced on behalf of the Respondent No.1 which would include the documentary evidence. The written submissions to be filed by the Petitioner on 7-4-2016. The Trial Court i.e. the Co-operative Court to accordingly keep the

matter on 7-4-2016 for acceptance of the written submissions. It is made clear that no further time would be granted for filing of the written submissions. The Trial Court would consider the said written submissions filed by the Petitioner prior to pronouncement of the Award. The Trial Court may thereafter keep the matter for pronouncing the Award as per its convenience.

4 With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]