

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9811 OF 2015

Jahir Razzak Shaikh

.. Petitioner

vs.

Sanmitra Cooperative Bank
Ltd., Pune and ors.

.. Respondents

Mr. Dilip Bodake for the Petitioner.

Ms M.S. Bane, B-Panel Counsel for State -Respondent Nos.3 to 5.

CORAM : M. S. SONAK, J.

DATE : 30 JUNE 2016.

P.C. :-

1] The challenge in this petition is to the order dated 18 May 2015, by which the Divisional Joint Registrar (revisional authority) has declined to condone the delay of about three years and eleven months in instituting the revision petition.

2] Mr. Dilip Bodake, learned counsel for the petitioner, submitted that the revisional authority has not recorded any finding that the petitioner had knowledge of the order dated 14 February 2007 made by the District Deputy Registrar, confirming the sale of the petitioner's property in favour of the auction purchaser. The petitioner had clearly averred in the application seeking condonation of delay that the petitioner acquired knowledge of such order only

on 8 October 2010, when, the petitioner noticed the mutation in the revenue records. Mr. Bodake pointed out that the petitioner, thereafter spent some time in obtaining the certified copy of the order dated 14 February 2007 and upon receipt of same instituted the revision petition. From the date of knowledge of the order dated 14 February 2007, the revision petition was in fact, instituted within the prescribed period of limitation. Mr. Bodake submitted that the length of delay is really not significant and what is important is quality of explanation. For all these reasons, Mr. Bodake submitted that the impugned order warrants interference under Articles 227 of the Constitution of India.

3] The delay in institution of the revision petition against the order dated 14 February 2007 is, even upon a very conservative basis, about three years and eleven months. If the application seeking condonation of delay is perused, it is quite evident that there is no sufficient cause shown in order to explain such inordinate delay. The application does not state the date on which the mutation was carried out in the revenue record. The application also does not state that the petitioner continues in possession of the property, which has, in fact, been sold by an auction sale in the year 2007. The

order dated 14 February 2007, confirms such sale. The revisional authority has taken cognizance of the sale deed executed in favour of the auction purchaser, which records that even the possession has been handed over to the auction purchaser. There is really no case made out to accept the petitioner's contention that the petitioner was unaware of such auction sale in respect of his own property for a period of almost four years. The explanation given in the application seeking condonation of delay, does not inspire confidence and the same was rightly not accepted by the revision authority.

4] There is no doubt that the petitioner had obtained a loan from respondent No.1-bank. Mr. Bodake invited my attention to certain receipts in the matters of repayment of loan. The receipts indicate that some payments have been made upto January 2007, but not beyond. In January 2007 or thereabouts, the petitioner's property has been sold in the auction sale. By order dated 14 February 2007, the auction sale has been confirmed. The amount obtained from the sale of petitioner's property has been credited to the loan account of the petitioner. In these circumstances, the petitioner, cannot feign innocence about the auction sale. In any case, the petitioner has not

explained as to why the petitioner stopped making any payments towards the loan account from January 2007. The least that was expected from the petitioner was to make enquiries with the bank, with regard to the status of his loan. All these are sufficient reasons to disbelieve the self-serving statement of the petitioner that he acquired knowledge of the order dated 14 February 2007, only on 8 October 2010. The revisional authority has appreciated the material on record in its proper perspective. There is no jurisdictional error or perversity involved in the view taken by the revisional authority.

5] This petition is accordingly, dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)

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