

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION LODING NO.1503 OF 2016

The CKP Co-operative Bank Ltd

Through their Officer

: Petitioner.

Versus

The Divisional Joint Registrar,

Co-operative Socieites, Mumbai & ors.

: Respondents.

Mr. B V Samant for the Petitioner.

Ms. Kavita Salunke, AGP for the Respondent Nos.1 and 2.

Mr. Chaitanya Nikte for the Respondent Nos.3 to 6.

Mr. Nikhil Rajani i/by M/s. V Deshpande & Co. for the Respondent No.15.

CORAM : R. M. SAVANT, J.

DATE : 06th October 2016

P.C.

1 The order dated 10/05/2016 condoning the delay in filing the Revision Application as also the order dated 26/05/2016 lifting the attachment passed by the Divisional Joint Registrar, Co-operative Societies, Mumbai are taken exception to by way of the above Petition.

2 By the order dated 10/05/2016, the delay of more than 2 ½ years in filing the Revision Application by the Respondent Nos.3 to 6 herein has been condoned. The said order has been challenged principally on the ground of violation of the principles of natural justice. It is the case of the Petitioner that the notice in respect of the hearing of the said application was received by it in the morning whereas the application was decided on the same day itself. In so

far as the order dated 26/05/2016 is concerned, by the said order the attachment of the properties by way of rent i.e. the rent receivable by the Respondent Nos.3 to 6 from the Respondent No.15 was lifted and the Respondent No.15 was directed to pay the rent to the Respondent Nos.3 to 6. This has been done by the Revisionary Authority at the interim stage without the Revision Application being decided, which is as yet pending.

3 Having regard to the aforesaid conspectus of facts, in my view, it would be just and proper to set aside both the orders i.e. the order dated 10/05/2016 and order dated 26/05/2016 and relegate the parties to a de-novo hearing of the application for condonation of delay. Hence the following directions :-

1] The order dated 10/05/2016 would stand set aside and the application for condonation of delay filed by the Respondent Nos.3 to 6 would be considered afresh by the Divisional Joint Registrar, Co-operative Societies, Mumbai. The Petitioner to file its reply to the application for condonation of delay within 3 weeks from date. The Divisional Joint Registrar to decide the application for condonation of delay within 8 weeks from date.

2] The order dated 26/05/2016 would also stand set aside but

substituted by directing the Respondent No.15 to maintain the position as regards the deposit of rent as is prevailing today i.e. to deposit the rent in the account of the Respondent Nos.3 to 6 in its branch at Dharavi and marking a lien on that. It is made clear that the Respondent Nos.3 to 6 would not be entitled to withdraw the said amount or interest accrued thereon.

- 3] The Respondent Nos.3 to 6 would deposit the amount of Rs.92,000/-, a cheque for which was directed to be brought in this Court by the order dated 08/06/2016. The same to be done within two weeks from date. The said amount would also lie in the same account where the rent is being deposited by the Respondent No.15.
- 4] This position would continue pending the decision on the revision application, in the event the delay is condoned in filing the same. If the delay is not condoned, then the Respondent No.15 would remit the amount accumulated on account of rent to the Petitioner herein subject to further orders that be passed in further challenges that would be raised by the Respondent Nos.3 to 6.
- 5] Needless to state that in the event the delay is condoned, the

revision application would be tried on its own merits and in accordance with law uninfluenced by the instant order or the impugned orders passed by the Divisional Joint Registrar. The same to be done expeditiously and not later than 6 weeks of the decision rendered in the application for condonation of delay.

- 6] With the aforesaid directions, the above Writ Petition is disposed of.

[R.M.SAVANT, J]