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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ RFA(OS) 20/2016

MAHAMEDHA URBAN CO-OPERATIVE BANK LTD..... Appellant

Represented by: Mr.Sujeet Kr.Singh, Advocate

versus

DELHI STATE CO-OPERATIVE BANK LTD Respondent

**Represented by: Mr.V.P.Singh, Sr.Advocate
instructed by Mr.Elgin Matt
John, Ms.Anju Bhattacharya,
Advocates**

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

CM No.8516/2016 & 8517/2016

1. Vide CM No.8516/2016, 175 days delay in filing the appeal is prayed to be condoned. Vide CM No.8517/2016, 35 days delay in re-filing the appeal is prayed to be condoned.

2. Suffice it to state that if the appellant shows sufficient cause for delay in filing the appeal the same would have to be condoned as prayed for in CM No.8516/2016. Similarly, if sufficient cause for delay in re-filing is shown, CM No.8517/2016 has to be allowed.

3. Conscious of the fact that the Court has to be more liberal in condoning the delay in re-filing an appeal, for the reason delay in re-filing the appeal would be attributable to the lawyer and not the party, we proceed to decide both applications.

4. The impugned order rejecting the plaint is dated April 30, 2015. Certified copy was applied for on May 01, 2015. It was supplied to counsel on June 11, 2015. Along with the opinion of the counsel concerning the RFA(OS) 20/2016

impugned decision the matter was sent to the appellant bank, as pleaded in the application, on June 25, 2015.

5. Thereafter, it is pleaded in CM No.8516/2016 as under:-

“3. Since, the matter is of high value, same was sent to the board for taking decision in respect of filing of appeal and there were certain queries by the Board of Directors and a case was sent to the branch and thereafter referred to the counsel to clarify the issues. The counsel clarified and sent the same to the branch of the appellant and the file was again put before the board meeting for decision for filing the appeal along with the input supplied by the counsel for the appellant.

4. That the board of the appellant finally decided for filing the appeal and the file was sent to the branch for onward conveying the instructions to the counsel. It is submitted that in the administrative process, there has been delay in filing the present appeal. It is submitted that the file was received along with the certified copy of the order from the branch of the appellant on 02.12.2015 and the appeal was prepared and sent to the appellant for vetting by the legal department on 12.12.2015. The legal department after vetting the draft appeal suggested some corrections which were conveyed on 18.12.2015 and after incorporating the same, the appeal was sent finally for signature on 21.12.2015 and same has been filed on 22.12.2015.”

6. Now, the averments in paragraph 3 and 4 till we reach the date December 02, 2015 are sans any particulars. Simply pleading that the matter was sent to the Board without disclosing the date is vague pleading. Similarly, to plead that the Board raised certain queries which were sent to the branch, without pleading the date when the Board raised the queries, the date when the queries were sent to the branch and responded to is vague. The vague reference to the queries being sent to the counsel without the date being specified; without date when the counsel gave the alleged clarification

would amount to vague pleadings.

7. Whilst it is true that each day has not to be explained pedantically, but the delay spanning July to November, 2015 needed to be explained properly and not with the vague pleas.

8. We do not find sufficient cause pleaded for condoning 175 days delay in filing the appeal. As regards the delay of 35 days in re-filing the appeal is concerned, we find same vagueness in the application.

9. But being liberal, we condone the delay of 35 days in re-filing the appeal because the delay is attributable to the counsel. We allow CM No.8517/2016.

10. Finding no sufficient cause, we do not condone 175 days delay in filing the appeal and dismiss CM No.8516/2016.

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1. Since delay in filing the appeal has not been condoned the appeal is dismissed as not maintainable.

2. No costs.

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

AUGUST 16, 2016

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