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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.3311 OF 2014

Shri. Gopinath Murlidhar Zawar,
Age: Major, Occ: Business,
R/o. 86, Navi Peth, Jalgaon. ..PETITIONER

VERSUS

1. The Chairman,
Anantnagar Sahakari Gruha
Nirman Ltd., Shahu Nagar,
Jalgaon, Dist. Jalgaon.
2. Shri. Anil Damodharrao Jahir,
Age: Major, Occ: Business,
R/o. Dhartidhan Bhikamchand
Market, Jalgaon, Dist. Jalgaon.
3. Sou. Primila Gopinath Zawar,
Age: Major, Occ: Business,
R/o. 86, Navi Peth, Jalgaon. ..RESPONDENTS

Mr S.B. Yawalkar, Advocate for petitioner;
Mr D.J. Dahad, Advocate for respondent Nos.1 to 3

CORAM : NITIN W. SAMBRE, J.

DATE : 4th SEPTEMBER, 2017

ORAL ORDER :

The respondents preferred an appeal before the Co-operate Appellate Court, which was delayed by 955 days, which is ordered to be condoned on

(2)

14th February, 2014, subject to payment of costs of Rs.5000/-, which order is impugned in the present petition.

2. Mr. Yawalkar, learned Counsel for the petitioner, while inviting attention of this Court to the judgment of this Court in the matter of **Varhyan wd/o Narendra Singh (since deceased) through L.Rs. Surjeet Singh s/o Narendra Singh and others vs Kala wd/o Narendra Singh and others** reported in **2014(2) Mh.L.J. 61**, would urge that even though relief of condonation of delay is discretionary relief, still the Court must give reasons before ordering condonation of delay. According to him, the order impugned lacks reasons, as such, need to be interfered with.

3. Per contra, learned Counsel for the original appellants would rely upon the judgment of the Apex Court in the matter of **Manoharan vs Sivarajan and others (Civil Appeal No.10581 of 2013 arising out of SLP (C) No. 23918 of 2012,**

(3)

particularly paragraph-11 thereof.

4. No doubt, the order may not be properly worded to the satisfaction of the present petitioner, whereby delay was ordered to be condoned. However, it is required to be noted that the respondents were put to condition of payment of costs of Rs.5000/-.

5. Apart from above, parameters laid down by the Apex Court in the matter of **Manoharan vs Sivarajan and others** (cited supra), particularly paragraph-11 thereof deals with contingencies in which the Court can condone delay.

6. In my opinion, the issue is squarely covered by the said observations of the Apex Court.

7. However, in the facts and circumstances of the case, costs of Rs.5000/- is enhanced to Rs.10,000/- (Rs. Ten thousand only) to be deposited before Co-operative Appellate Court within four

(4)

weeks from today, to which, the petitioner is entitled to.

8. With the above observations, the writ petition is disposed of.

(NITIN W. SAMBRE, J.)

Tupe