

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9339 OF 2015

Shrinath Nagari Sahakari
Pat Sanstha Ltd., Wadgaon Gupta,
Through its Authorized Representative
Mr. Ashok Chandrabhan Gavhane,
Age 35 years, Occ. Service
R/o Khandala, Tq. and District
Ahmednagar. ..Petitioner

Versus

Vilas Dagadu Chor,
Age 52 years, Occ. Agriculture
R/o Dehare, Tq. and Dist. Ahmednagar. ..Respondent

...
Advocate for Petitioner : Shri Devdatta Deshmukh
h/f Shri G.K.Thigale (Naik)
Advocate for Respondent : Shri P.S.Pawar
...

CORAM : RAVINDRA V. GHUGE, J.
Dated: January 12, 2017
...

ORAL JUDGMENT :-

1. Heard learned Advocates for the respective parties.
2. Rule.
3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.

4. The petitioner is aggrieved by the order dated 2.2.2015, by which, the delay of about 8 years and 134 days, has been condoned only for the reason that the applicant was to contest the matter on merits and it would be necessary to give him an opportunity.

5. Shri Thigale, learned Advocate for the petitioner has strenuously criticized the impugned order by placing reliance upon the principles culled out by the Honourable Apex Court in paragraphs 15 and 16 of its judgment in the case of Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and others [(2013) 12 SCC 649].

6. Shri Pawar, learned Advocate for the respondent submits that the Maharashtra Cooperative Appellate Court Aurangabad, pursuant to the impugned order condoning the delay, has already decided the appeal No. 33 of 2015 by its judgment dated 28.4.2016. He, therefore, submits that this petition is rendered infructuous.

7. I find that if the principles culled out by the Honourable Apex Court in Esha Bhattacharjee's case (supra) are applied to this case, the impugned order could not be justified as none of those principles have been made applicable by the appellate Court while passing the impugned order.

8. However, considering the peculiar situation as above, I find that since heavy costs are imposed upon the respondent for the delay caused, the hardships and inconvenience suffered by the respondent have been reduced. The appellate Court has imposed costs of Rs.10,000/-. I find the costs imposed are adequate.

9. In the light of the above, this petition is disposed off. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

...

akl/d