

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

33 CIVIL APPLICATION NO. 10576 OF 2014
IN FAST/21483/2014

THE MANAGER GEORAI TALUKA SHETKARI SAHAKARI GINNING AND
PRESSING KARKHANA LTD. GEORAI, DIST. BEED.
VERSUS
THE SUPERINTENDENT ENGINEER THE MAHARASHTRA STATE
ELECTRICITY DISTRIBUTION COMPANY

...
Advocate for Applicants : Mr. Madanlal S. Indani.
Advocate for Respondents : Mr. D. P. Deshpande.
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CORAM : K.K. SONAWANE, J.

DATED : 25TH SEPTEMBER, 2017.

Order :-

1. Heard learned counsel for the applicant and learned counsel for the respondent- Maharashtra State Electricity Distribution Company Limited (MSEDCL). Perused the application and relevant documents produced on record.

2. This application is for condonation of 1158 day's delay for filing First Appeal against the impugned Judgment and Order of recovery of electricity charges passed by the learned Civil Judge, Senior Division, Beed in Special Civil Suit No. 9 of 2008 dated 1st March, 2011. According to learned counsel for petitioner, due to non-availability of sufficient funds for payment of requisite court fees of Rs.35,000/- (Rs. Thirty Five Thousands Only), the applicant could not present appeal within stipulated period. He further asserted that, the applicant is Co-operative Society registered under the Maharashtra Co-operative Societies Act, 1960, and since July-2005, the respondent- MSEDCL disconnected the electric supply for non payment of electric charges, and therefore, the petitioner Co-operative Institution did not carry out it's function. Moreover, there was drought situation, which creates financial crises for applicant Co-operative Society, which resulted in non-payment of electric charges to the respondent- MSEDCL. The delay for filing First Appeal is not intentional and deliberate, but due to lack of

funds. Hence, learned counsel for applicant requested to condone the delay.

3. The learned counsel for respondent- MSEDCL vociferously opposed the contentions put-forth on behalf of applicant and submits that the suit filed by respondent- MSEDCL came to be decreed for recovery of electricity charges of Rs.17,85,256.69 Ps. (Rs. Seventeen Lakhs Eighty Five Thousands Two Hundred Fifty Six and Sixty Nine Paise Only). The electricity charges were outstanding towards applicant since year 2004. But, there was no response for depositing the dues on behalf of applicant. Therefore, circumstances constrained the Civil Court, Senior Division, Beed to decree the suit. According to learned counsel for respondent- MSEDCL, reasons mentioned in the application are not sufficient and satisfactory to condone the delay. Hence, he requested to reject the application.

4. Admittedly, the applicant is the Co-operative Institution. The learned Civil Judge, Senior Division, Beed, after appreciation of evidence on record passed the decree for recovery of amount Rs.17,85,256.69 Ps. (Rs. Seventeen Lakhs Eighty Five Thousands Two Hundred Fifty Six and Sixty Nine Paise Only) against the applicant towards dues of electricity charges. It appears that, even after the impugned Decree, the applicant did not response for payment of electricity charges. Today also, the applicant came forward with specific pleadings that, due to lack of sufficient funds of Rs.35,000/- (Rs. Thirty Five Thousand Only), the applicant could not file the appeal within stipulated period.

5. As observed supra, there was a recovery of near about Rs.17,85,256.69 Ps. (Rs. Seventeen Lakhs Eighty Five Thousands Two Hundred Fifty Six and Sixty Nine Paise Only), which was shown outstanding by the respondent- MSEDCL at the time of filing of suit in the year 2008. Moreover, the interest amount as per the Decree passed by the learned Civil Judge, Senior Division, Beed, would have to add in the principle decretal amount. Considering the reasons of financial crises, I find that one more opportunity is required to be given to applicant to ventilate its grievance in Appellate Forum on certain

terms and condition. Definitely, it would sub-serve the purpose for substantial justice. Hence, I proceed to pass order that the application for condonation of delay stands allowed in terms of prayer clause mentioned in the application, subject to condition that, the applicant shall deposit amount of Rs.10,00,000/- (Rs. Ten Lakhs Only) from the outstanding dues within a month from the date of this Order towards arrears of electricity charges. In case, the applicant fails to deposit the amount of Rs.10,00,000/- (Rs. Ten Lakhs Only) within stipulated period of one month from today, the application for condonation of delay shall stand dismissed automatically without further reference to this Court.

6. Accordingly, application stands disposed of in above terms.

[K. K. SONAWANE]
JUDGE

rrd.