

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (ST) NO. 19060 OF 2017

Ajinkya's Grihanirman Sahakari Society Ltd. ..Vs.. Sudhir Rohidas Nagarkar & Ors.

Office Notes, Office Memorandum of appearances, Court's orders or directions & Registrar's orders.	Court's or Judge's orders
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Mr. I. M. Khairdi for Petitioner.
Mr. Vikas B. Shivarkar for Respondent No.1.
Ms. M. S. Bane 'B' Panel Counsel, AGP for State.

CORAM : K. K. TATED, J.
DATE : AUGUST 04, 2017.

P.C. :

. Heard learned Counsel for parties.

2. By this petition under Article 227 of the Constitution of India Petitioner is challenging the order dated 28th June, 2017 (recorded in roznama) passed by the Divisional Joint Registrar, Co-operative Societies, Pune Division, Pune on Application dated 19th April, 2017 rejecting the same and condoning the delay in filing the Application under Section 21-A of the Maharashtra Co-operative Societies Act, 1960.

3. The learned Counsel for Petitioner made statement that they are not claiming relief against the Respondent Nos. 2 to 11.

4. It is the contention of the Petitioner that though the Respondent No.1 is contesting party, had not filed any application for condonation of delay in filing Application under Section 21-A of the said Act.

5. The Authority in its impugned order recorded that delay in filing the Application to be condoned. He submits that neither the contesting Respondent No.1 nor the Authority provided to the Petitioner the copy of Application, if any, filed by the Respondent No.1 for condonation of delay. His contention is that neither the Respondent No.1 filed any application for condonation of delay and/or made any oral request for the same. Therefore, the said order is required to be set aside and matter to be remanded to the Authority to decide his Application dated 19th April, 2017 on its own merits.

6. The learned Counsel Mr. Shivarkar appearing on behalf of Respondent No.1 submit that they preferred the Application under Section 21-A of the said Act for which there is no question of limitation.

7. The learned AGP Mrs. Bane appearing on behalf of Respondent/State after taking instructions from the concerned Officer makes a statement that they are ready to decide the Application dated 19th April, 2017 filed by the Petitioner on its own merits after hearing both the parties. She submits that the matter may be remanded by setting aside the impugned order dated 28th July, 2017.

8. In view of the statement made by the learned AGP, taking instructions from the concerned Officer, learned Counsel Mr. Khairdi for Petitioner submit that he may be permitted to file additional pleadings, if any, before the Authority and his Application dated 19th April, 2017 to be decided on its own merits. Hence, the following order.

ORDER

(a) The impugned order dated 28th June, 2017 passed by the learned Divisional Joint Registrar, Pune Division, Pune is set aside and the matter is remanded for hearing on application dated 19th April, 2017 on its own merits.

(b) The Divisional Joint Registrar, Pune Division, Pune to decide the application dated 19th April, 2017 on its own merits as early as possible, but in any case within four weeks.

(c) Writ Petition stand disposed of.

(d) No order as to costs.

(e) Parties to remain present before the Divisional Joint Registrar, Pune Division, Pune on 9th August, 2017 for fixing the date of hearing and/or for hearing on application. It is not necessary to issue fresh notice to the parties for fixing the date of hearing.

(K.K.TATED, J.)