

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4595 OF 2017

M/s. Raman Hospital .. Petitioner.
v/s.
Mahanagar Co-op. Bank Ltd.,
& Others .. Respondents.

Mr. V. S. Kapse i/b. Mr. Upendra Mahadik, for the Petitioner.
Mr. R. K. Sarwankar, for Respondent No.1.
Dr. D. R. Talwalkar, for Respondent Nos. 2 & 3.

CORAM: M.S.SANKLECHA, J.
DATE : 23rd AUGUST, 2017.

P.C:-

Moved for urgent reliefs.

The Petitioner has moved this application for urgent reliefs and condonation of delay in depositing an amount of Rs.1.25 Crores as directed by this Court in its order dated 4th May, 2017. The Petitioner was required to deposit the amount of Rs.1.25 Crores being the 50% of Rs.2.20 Crores approximately payable by the Petitioner under the award passed by the Co-operative Court against the Petitioner. Petitioner states that the amount of Rs.2.20 Crores as directed by order dated 4th May, 2017 has been deposited in its entirety by 25th July, 2017. There is a delay of 27 days. Mr. Kapse, learned Counsel appearing for the Petitioner states that he had difficulty in raising the amount and that caused the delay in complying with the order of the Co-operative Court.

2 Mr. Sarwankar, learned Counsel appearing for Respondent No.1-Bank, on instructions, does not object to the condonation of delay as the amount has now been deposited.

3 At this stage, learned Counsel for the parties suggested that Petition can be disposed of.

4 Briefly, the facts leading to this Petition are as under:-

- (a) The Petitioner had taken certain loan from Respondent No.1-Bank. Consequent to same, parties have initiated proceedings before the Co-operative Court, which awarded an amount of Rs.62.32 lakhs @ 18.5% p.a. recovered from the Petitioner.
- (b) Being aggrieved, Petitioner had filed an appeal to the Co-operative Appellate Court and also an application for stay of the award dated 27th June, 2016 filed before the Co-operative Court. The Co-operative Court by an order dated 21st November, 2016 rejected the Petitioner's application for stay of the demand, pending disposal of the appeal.
- (c) Being aggrieved, the Petitioner had filed the present Petition on 22nd December, 2016. This Court was of the view that keeping in view that an amount of Rs.2.20 Crores is payable to Respondent No.1-Bank by the Petitioner, interest of justice would be met if the Petitioner is directed to deposit Rs.1.25 Crores. The Petitioner has now deposited the amount of Rs.1.25 Crores. This deposit of Rs.1.25 Crores in the facts and circumstances of the case is sufficient deposit for hearing Petitioner's appeal by the Co-operative Appellate Court on merits.

5 Counsel for the parties are in agreement that Petitions itself could be disposed of with a directions that the pending Appeal before the Co-operative Appellate Court, to be disposed as expeditiously as possible and preferably within six months from today.

6 It is made clear that amount of Rs.1.25 Crores which has been deposited by the Petitioner with the Respondent No.1- Bank, the balance amount due, consequent to the award dated 27th June, 2016, is stayed.

7 Accordingly, **Petition** is **disposed of** in the above terms. No order as to costs.

Parties to act on an authenticated copy of this order duly authenticated by the Associate of this Court.

(M.S.SANKLECHA,J.)