

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 52 OF 2018

GAJANAN J. MANERKAR.,

... Petitioner

Versus

THE VASCO URBAN CO-OP. CREDIT
SOCIETY LTD., REP., BY ITS AUT.
REP., SANJAY M. NAGVENKAR AND 3
ORS.,

... Respondents

Shri Sandesh D. Padiyar, Advocate for the Petitioner.

Coram:- C. V. BHADANG, J.

Date:- 31st January 2018

ORAL ORDER:

On hearing Shri Padiyar, the learned Counsel for the petitioner, I do not find that any case for interference is made out.

2. The learned Registrar's Nominee by judgment and order dated 10.11.2006, had passed an award in the sum of Rs.4,57,156/- along with interest at the rate of 14.5% per annum with quarterly rests, against the petitioner. The record shows that the petitioner failed to remain present before the Registrar's Nominee, as such, an ex-parte order came to be passed. The petitioner did not challenge the said award for a period of ten years. Eventually, the appeal was filed before the learned Co-operative Tribunal in the year 2016.

3. It is contended on behalf of the petitioner that the appeal is filed within limitation, as no copy of the award was served on the petitioner. The learned Tribunal by an order dated 14.03.2016, dismissed the appeal on the ground that the appeal is presented beyond time and it is not accompanied by an application for condonation of delay. The petitioner filed an application for review of the said judgment, which has been dismissed on 16.11.2016.

4. Shri Padiyar, the learned Counsel for the petitioner submits that the application for review was accompanied by an application for condonation of delay, explaining the delay in filing the appeal, in as much as, the review application was filed within time. He therefore submits that the Tribunal was in error in dismissing the application for review.

5. Admittedly, the award by the Registrar's Nominee is of the year 2006, which was not challenged for a period of ten years and even when challenged, on a spacious ground that the appeal is without limitation, the appeal was not accompanied with an application for condonation of delay. Once, the appeal was not accompanied by an application for condonation of delay, the learned Tribunal was justified in dismissing the appeal. A perusal of para 10 of the judgment of the Tribunal, shows that

the Tribunal had even granted opportunity to the learned Counsel for the petitioner to file an application for condonation of delay, which was never availed of. Thus, the refusal to entertain the review application also, cannot be faulted with. Moreover, the petitioner has not shown any bonafides as it was fairly conceded during the course of the arguments at bar that after 2006, the petitioner has not paid any amount under the said award.

6. In the overall circumstances, I decline to entertain the petition, which is accordingly dismissed.

C. V. BHADANG, J.

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