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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2832 OF 2017

Shrimant Malojiraje Co-op. Bank Ltd. & Anr.	...Petitioners
V/s.	
Sangita S. Pawar & Anr.	...Respondents

Mr.V.S. Talkute for the Petitioners.

Mr.Murlidhar B. Kale for the Respondent No.1.

Mr.S.D. Rayrikar, A.G.P. for the State – Respondent Nos.2 and 3.

CORAM : R.D. DHANUKA, J.

DATE : 4TH APRIL, 2018.

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the judgment and order dated 14th February, 2014 and 15th December, 2015 passed by the Learned Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur.

2. I have heard the learned counsel appearing for the parties.

3. A perusal of the order dated 14th February, 2014 passed by the learned authority clearly indicates that the application for condonation of delay, which according to the petitioners was for nine years has been condoned without recording any reasons. The

Revisional Authority has simplicitor mentioned in the impugned order that the 'delay is hereby condoned'. After condoning the delay, the Revisional Authority has proceeded to dispose of the revision application without hearing the petitioners. In my view, since the impugned order thereby condoning delay is without recording the reasons deserves to be set aside, the order dated 15th December, 2015 thereby allowing the revision application filed by the respondent no.1 also deserves to be set aside.

3. The application for condonation of delay is restored to file and shall be decided afresh by the Learned Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur after hearing both the parties. The application shall be disposed of by recording reasons and in accordance with law.

4. If the Learned Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur comes to the conclusion that the delay was sufficiently explained and deserves to be condoned, the Learned Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur shall pass an order in that application and shall proceed with the hearing of the revision application and shall pass a fresh order in accordance with law without being influenced by the reasons recorded and the conclusion drawn in the order dated 15th December, 2015 and in accordance with law.

5. I therefore, pass the following order :-

a). The impugned order dated 14th February, 2014 and the order dated 15th December, 2015 passed by the Learned Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur are quashed and set aside. The application for condonation of delay and the Revision Application No.23 of 2014 are restored to file before the Learned Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur. The application for condonation of delay shall be heard first and shall be decided afresh in accordance with law after hearing both the parties and without being influenced by the reasons recorded and the conclusion drawn in the order dated 14th February, 2014. The learned authorities shall pass a reasoned order in the said application for condonation of delay.

b). The Revision Application No.23 of 2014 is also restored to file which shall be decided only after the Revisional Authority, if coming to the conclusion that the delay is sufficiently explained. The said order also shall be passed by the Revisional Authority after hearing both the parties and without being influenced by the observations made and the conclusion drawn in the impugned order dated 15th December, 2015.

c). The parties are directed to remain present before the Learned Divisional Joint Registrar, Co-operative Societies, Kolhapur

Division, Kolhapur on 16th April, 2018 at 3:00 p.m.

d). The proceedings shall be disposed of expeditiously and not later than six months from the date of the first meeting.

e). The petitioners shall not auction the property in question for a period of four weeks from today. The respondent no.1 shall not create any third party rights in respect of the property in question till the application of the respondent no.1 for condonation of delay and the application for stay is decided by the Learned Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur and for such period the Revisional Authority directs.

f). The application for condonation of delay and the stay shall be disposed of within four weeks from the date of the first meeting.

6. The writ petition is disposed of in aforesaid terms. No order as to costs.

7. All the parties as well as the Revisional Authority to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)