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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION (ST) NO. 19182 OF 2019**

Ashok Devgaonda Patil (Since Decd.)
through LR's and another

.....Petitioners

V/s.

Janata Nagar Sahakari Patsanstha
Ltd. Kupwad Main Branch and another

.....Respondents

Mr. Vikramsingh Parmar for the Petitioner

Mr. P. R. Suryawanshi i/b Mr. Gajanan M. Savagave for respondent

CORAM : NITIN W. SAMBRE, J.

DATE : JULY 16, 2019.

P.C.

Heard.

2 Present petitioner is opponent in Co-operative Dispute No. 630 of 2012. At the time of recording evidence, since present respondent-disputant noticed that his dispute is filed at belated stage, he moved an application for condonation of delay which came to be allowed by the learned Co-operative Court which order is further confirmed in Revision by the Co-operative Appellate Court. As such, this petition.

3 The submissions of the learned counsel for the petitioner-original opponent is, the dispute has reached at the fag end i.e. at the stage of final arguments after evidence was over and considering the stage at which the dispute has reached, both the Courts have committed an error apparent on the face of record in ordering condonation of delay. The learned counsel wound invite attention of this Court to the provisions of Sub-Section 3 of Section 92 of the Maharashtra Co-operative Societies Act so as to claim that the dispute should have been filed within period of 6 years. According to him, dispute is filed at much later stage and there is no convincing explanation, still the Authorities have proceeded to condone the delay.

4 The fact remains that in the dispute, respondent-disputant having realized that his dispute is presented at belated stage pursuant to an objection raised by the petitioner. As such he filed an application for condonation of delay. Said application is allowed by the Co-operative Court and in Revision, same was confirmed at the

behest of the present petitioner.

5 The discretion is vested in Co-operative Court to condone the delay, if the dispute is filed beyond the period of 6 years.

6 Once both Courts below having exercised their discretion in favour of respondent-disputant that too subject to compliance of certain conditions, in my opinion, under Article 227 of the Constitution of India, this Court need not to go into legality of such discretion being exercised.

7 The only modification which in my opinion warrants in the facts and circumstances of the case is, amount of cost of Rs. 1000/- is enhanced to Rs. 5000/-.

8 Petition stands dismissed.

[NITIN W. SAMBRE, J.]