

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3114 OF 2019

Suvarna Vinod Jadhav

...Petitioner

vs.

The Maharashtra State Cooperative
Appellate Tribunal, Mumbai and Ors.

...Respondents

Mr. S.M. Gorwadkar, Sr. Advocate I/b. Alisha Pinto, for the
Petitioner.

Mr. Pravartak Pathak, for the Respondents

CORAM : M. S. SONAK, J.

DATE : APRIL 02, 2019

P.C.:

. Heard the learned counsel for the parties.

2. After this matter was argued for some time, Mr. Gorwadkar, the learned senior counsel on the basis of instruction from the Petitioner prays leave to withdraw this Petition with liberty to raise all issues before the Appellate Authority.

3. The request is reasonable and can be accepted. However, in this case, the Appellate Authority has condoned the delay in instituting the Appeal. The issue of limitation cannot be re-opened before the Appellate Authority again. However, if ultimately the

Appeal is allowed and the Petitioner choses to question the decision, the Petitioner can always question the impugned order by which the delay was condoned. Though Section 105 of the Code of Civil Procedure is not applicable to such matters, the principles therein can always be applied. Liberty is therefore in these terms.

4. In so far as the issue of *locus standi* of the Respondents is concerned, the observations in the impugned order are to be recorded as only *prima facie* since such observations are made at the stage of grant of leave. The issue of *locus standi* can therefore be made by the Petitioner in the Appeal and then to be decided. Similarly, the issue of *locus standi* of the Petitioner is also kept open.

5. With liberty as aforesaid, this Petition is permitted to be withdrawn.

6. All contentions of parties are left open in the aforesaid terms.

(M. S. SONAK, J.)