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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9321 OF 2019

Shirish Dalichand Oswal ..Petitioner.

V/s.

Rupee Co-operative Bank Ltd. & Ors. ..Respondents.

Mr.A.V. Borwankar for the petitioner.

Mr.Pratap Patil for respondent No.1.

CORAM : NITIN W.SAMBRE, J.

DATE : AUGUST 30, 2019

P.C. :-

Heard rival counsel.

2. The order impugned is dated June 19, 2019 passed by the Co-operative Appellate Court whereby the prayer of the petitioner for staying the judgment of the Co-operative Appellate Court in Appeal No.39/1918 delivered on April 25, 2019 came to be rejected.

3. Submission of learned counsel for the petitioner are, pursuant to the provisions of section 150 of the Maharashtra Cooperative Societies Act 1960 ('the Act' for short), the petitioner has every right to initiate review proceedings within the period of limitation of 90 days. Till such

limitation expires, the order of remand passed by the Co-operative Appellate Court on April 25, 2019 cannot be given effect to.

4. The next limb of submission is, pursuant to the provisions of Order 20 Rule 5A of the Code of Civil Procedure, since the petitioner was appearing in person, a copy of the judgment delivered by the Co-operative Appellate Court dated April 25, 2019 should have been made available. That being so, the order impugned rejecting the prayer by the Co-operative Appellate Court is not sustainable.

5. Apart from above, the fact remains that the judgment and order of the Co-operative Appellate Court is not questioned in the present petition.

6. Mr.Patil learned counsel appearing for respondent No.1 has opposed the claim of the petitioner.

7. Having appreciated the submissions, what is noticed is, after the order of remand, the petitioner has already appeared before the Co-operative Court and sought adjournment on June 30, 2019 and accordingly, the Co-operative has adjourned the matter.

8.. The fact remains that the petitioner is not confident as to whether to invoke the provisions of section 150 of the

Act. His application, if any, thereunder for review is not produced on record. That being so, this Court need not go into the aspect as to whether the order of remand should have been given effect to, before the period of limitation for review is over.

10. Apart from above, the fact remains that the period of 90 days as provided under section 150 of the Act in the form of limitation is already over. That being so, in my opinion, no case for interference is made out. The petition fails and is dismissed.

11. In case if the petitioner intends to prefer any review application, he has every right to seek stay to the judgment of the Appellate Court under review.

(NITIN W.SAMBRE, J.)