

DDR

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9882 OF 2019

Mangal Co-operative Bank Ltd. ..Petitioner

vs.

M/s. Star Fabricas and ors. ..Respondents

WITH

WRIT PETITION NO. 9889 OF 2019

Mangal Co-operative Bank Ltd. ..Petitioner

vs.

Ashdin Die Castine Pvt. Ltd. & ors. ..Respondents

....

Ms. Preeti Walimbe a/w. Jagdish Choudhary i/b. Raj Legal for
petitioners in both Petitions.

Shri P.P. Kulkarni for respondent Nos. 1 to 5 in both Petitions.

Shri Sandeep Babar, AGP for respondent No.6 in both Petitions.

....

CORAM : M.S.KARNIK, J.

DATE : 1st OCTOBER, 2019

P.C. :

Heard learned counsel for the petitioner. Both the
Petitions are disposed of by a common order.

2. The petitioner is a Co-operative Bank has challenged
the order dated 31st May, 2019 passed by the Divisional Joint

Registrar, Co-operative Societies, Mumbai Division, Mumbai, rejecting the restoration application filed by the Bank. The restoration application is rejected on the ground that the Bank has not explained the delay of about 20 months in filing the application satisfactorily. The Revision Application filed by the bank challenging the order dated 30th May, 2014 passed by the Deputy Registrar, C.S., Mumbai (Deputation), Mumbai under Section 101 of the M.C.S. Act, 1960 was dismissed for default on 25th April, 2016. Almost after a period of 20 months application for restoration is filed.

3. Learned counsel for the petitioner invited my attention to the reasons mentioned in the application and submitted that the delay in applying for restoration has not been deliberate. According to her, the Branch Manager and Authorised Officer met with an accident on 17/9/2016. It is stated that Mr. H.G. Hingu who met with an accident had all the relevant case papers with him. After the new Manager took over, it took him some time to get all the papers from Mr. Hingu who had suffered the accident.

4. Learned counsel for the respondents submitted that no satisfactory explanation is placed on record, but only some vague reasons are stated. The petitioners have not been diligent in attending the hearing and even prior to the dismissal, on none of the dates the petitioner – Bank appeared. According to him, this conduct dis-entitles the petitioner seeking any relief of restoration and it cannot be said that there is any error in exercise of the discretion by the authority in refusing to condone the delay.

5. I have gone through the order passed by the trial Court. The reason for the delay is that it took the new Manager some time to get all the papers from the earlier Manager who met with an accident. Considering that the application is made by the petitioner Bank for restoration of the revision application which was dismissed for default, in my opinion, the inconvenience caused to the respondents can be adequately compensated with costs.

6. The present Petition is allowed subject to payment of cost of Rs.10,000/- in each Petition to the respondent Nos.1 to 5. The cost to be paid within a period of 4 weeks from today.
7. It is made clear and even learned counsel for the petitioner on instructions of the Bank undertakes not to take any unnecessary adjournments in the Revision Application and will co-operate with the Divisional Joint Registrar in the expeditious disposal of the Revision Application.
8. The impugned orders are set aside.
9. The delay is condoned.
10. The Revision Applications are restored to file. The Divisional Joint Registrar to hear the Revision Application on its own merits and in accordance with law.
11. The parties to appear before the Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai, on 14th October, 2019, at 11.00 a.m.
12. The Petitions are disposed of.

(M.S.KARNIK, J.)