

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

956 CIVIL APPLICATION NO.14359 OF 2019
IN CIVIL REVISION APPLICATION ST/36838/2019

MAHARASHTRA GRAMIN BANK, THROUGH IT S REGIONAL
MANAGER, ASHOK NANDLAL GATTANI
VERSUS
ANWAR HAJI AJIJ KACHCHI

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Advocate for Applicants : Mr. Patil Milind M. (Beedkar)
Advocate for Respondents : Mr. G.R. Syed
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CORAM : V. K. JADHAV, J.
DATED : 28th FEBRUARY, 2020

PER COURT:-

1. Heard both sides.
2. This is an application seeking condonation of delay of 188 days caused in filing the civil revision application.
3. The applicant is the original defendant. The respondent original plaintiff has instituted the Regular Civil Suit No. 476 of 2018 simplicitor for perpetual injunction without seeking any declaration. Admittedly, the action initiated as against the respondent-plaintiff is under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (SARFAESI Act). The applicant bank has therefore filed an application under Order VII Rule 11 clause (d) of C.P.C. thereby raising objection about the jurisdiction of the civil court. The trial court has rejected the application on

20.2.2019. However, delay has been occurred due to some procedural aspects of obtaining sanction from the Head office and after completion of the formalities, the revision has been preferred. There is no intentional delay as such.

4. Learned counsel for the respondent has strongly resisted the application. The respondent has also filed affidavit in reply. Learned counsel for the respondent-original plaintiff submits that the applicant bank is playing all tactics to prolong the matter. Even though the respondent-plaintiff has filed an application to call for certain record in respect of the loan amount from the office of the applicant, however, the applicant bank is not willing to produce the record before the court and as such killing the time. There is inordinate delay in filing the civil revision application. No satisfactory explanation is tendered for condonation of delay. Learned counsel submits that the application is thus liable to be rejected.

5. It appears that the delay has been caused due to compliance of some procedural formalities and the administrative sanction etc. from the Head office of the applicant bank. It is also important to note that the applicant has filed application under Order VII Rule 11(d) of C.P.C. in terms of the provisions of Section 34 of the SARFAESI Act, 2002 pointing out to the court that the civil court has no jurisdiction. Thus, considering entire aspects of the case, I am inclined to condone the delay. Hence, I proceed to pass the following order:-

O R D E R

- I. Civil application is allowed in terms of prayer clause "B".
- II. Civil application is disposed of accordingly.

List the civil revision application on 26.3.2020 for admission.

(V. K. JADHAV, J.)

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