

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

**WRIT PETITION NO.11720 OF 2016**

Ghansham Narang (HUF), Through its  
Karta Ghansham Singh Narang ..Petitioner

V/s.

Kohinoor Premises Co. Op. So. Ltd & Ors. ..Respondents

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Mr.Vishwabhushan Kamble for the Petitioner.

Mr.Shoaib I. Memon a/w Mr.Ibrahim Memon for Respondent No.1.

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**CORAM : C.V. BHADANG, J.**

**DATE : 24<sup>th</sup> JANUARY 2020**

**PC.**

1. The challenge in this petition is to the order dated 10<sup>th</sup> September 2015 passed by the Co-operative Court condoning the delay in filing written statement by the respondent No.1-Society. That order has been confirmed by the Co-operative Appellate Court in Revision Application No.46 of 2015, by a judgment and order dated 01<sup>st</sup> February 2016.

2. It appears that the dispute before the Co-operative Court is filed by the petitioner under Section 91 of the Maharashtra Co-operative Societies Act, ('Act' for short). The respondent No.1 appeared before the Co-operative Court and filed an application at

Exhibit-7 seeking extension of time to file the written statement, on the ground that the respondent No.1 required time to collect several documents in order to enable it to file the written statement, resulting into the delay. The Co-operative Court by the order dated 10<sup>th</sup> September 2015 found that the delay was about 115 days. However, the Co-operative Court was of the opinion that in order to have an adjudication on merits, it is necessary to grant permission to file the written statement, after condoning the delay. In that view of the matter the delay has been condoned subject to the costs of Rs.1,000/-, which order has been confirmed by the Co-operative Appellate Court.

3. I have heard the learned counsel for the parties. Perused record.

4. It is submitted by the learned counsel for the petitioner that no valid or acceptable ground or reason has been shown by the respondent No.1 for condonation of delay. It is submitted that although the respondent No.1 claimed delay of 55 days only, the actual delay is of more than 145 days. It is submitted that respondent No.1 never applied or sought for any documents from the petitioner who at the relevant time was the Secretary of the

Society and therefore the ground that written statement could not be filed for want of documents could not have been accepted.

5. The learned counsel for the respondent No.1 states that the documents were intentionally withheld and the petitioner cannot take benefit of his own wrong. It is submitted that the Revisional Court has confirmed the order passed by the Co-operative Court and no case for interference is made out.

6. I have considered the submissions made. It appears that the Co-operative Court has found that the delay is about 115 days. In my considered view the Co-operative Court is right in observing that normally the Court would prefer an adjudication on merits that on technicalities. The ground made out by the respondent No.1 is that it was not possible to file the written statement for want of certain documents. There are allegations and counter allegations made as to whether any such application was made or the documents were sought for and were refused. I have carefully gone through the order passed by the Co-operative Court as well as Co-operative Appellate Court and I do not find that the discretion exercised by both the Courts below suffers from any infirmity, so as to require interference under Article 227 of the

Constitution of India. In that view of the matter the petition is dismissed, with no order as to costs.

**Nilam  
Kamble**

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**C.V. BHADANG, J.**