

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

WRIT PETITION NO.5389 OF 2019

Vivek Mangal Varsha CHSL
Through Chairman ... Petitioner
V/s.
Vyomesh Mehta and anr. ... Respondents

Ms.Madhubala Mahesh Dave, Advocate for the Petitioner.
Mr.Dharmesh Joshi, Advocate for Respondent No.1.
Mr.A.B.Kadam, AGP for Respondent No.2-State.

**CORAM : UJJAL BHUYAN, J.
DATE : JANUARY 3, 2020.**

P.C.:-

1. Heard Ms.Madhubala M. Dave, learned counsel for the petitioner; and Mr.Dharmesh Joshi, learned counsel for respondent No.1; also heard Mr.A.B.Kadam, learned AGP for respondent No.2.

2. This petition has been filed under Articles 226/227 of the Constitution of India assailing the legality and correctness of order dated 31st July, 2018 passed by respondent No.2 declining to condone the delay in filing the revision application by the petitioner.

3. Petitioner is a co-operative society registered under the Maharashtra Co-operative Societies Act, 1960 (briefly “the Act” hereinafter). Respondent No.1 is a member of petitioner.

4. Alleging that respondent No.1 was a defaulter, not paying dues of the petitioner, an application was filed by the petitioner before the District Deputy Registrar of Co-operative Societies, Bandra, Mumbai for issuance of Recovery Certificate against respondent No.1. By order dated 23rd August, 2017, the application filed by the petitioner for issuance of Recovery Certificate under Section 101 of the Act was rejected.

5. Aggrieved by such rejection order, petitioner preferred revision application before the Deputy Registrar of Co-operative Societies, Bandra, Mumbai i.e. respondent No.2. Since there was delay in filing the revision application, an application for condonation of delay was also filed.

6. According to the petitioner, there was delay of 45 days in filing the revision application, if delay is counted from the date of knowledge of the order. However, according to respondent No.1, the delay was of 235 days.

7. Be that as it may, by the order dated 31st July, 2018 respondent No.2 declined to condone the delay and rejected the application for condonation of delay. Consequently, the revision application was also dismissed as being time-barred.

8. Aggrieved, present writ petition has been filed.

9. After hearing learned counsel for the parties and on due consideration, court is of the view that it would be in the interest of justice if revision application is heard and decided by the Revisional Authority on merit in accordance with law. Whether the delay is of 45 days or of 235 days, court is of the view that in the facts and circumstances of the case and considering the averments

made in the writ petition, the same is required to be condoned.

10. Consequently, order dated 31st July, 2018 is hereby set aside. Respondent No.2 is directed to take on board the revision application filed by the petitioner and to hear and decide the same in accordance with law within a period of three months from the date of receipt of an authenticated copy of this order.

11. No opinion is expressed on merit and all contentions are kept open.

12. Writ petition is disposed of.

(UJJAL BHUYAN, J.)

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