

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

INTERIM APPLICATION NO. 3577 OF 2020
IN
RC NO. 154 OF 2020

The Vishweshwar Sahakari Bank Ltd., Pune ..Applicant

v/s.

Mr. Suhas Ramchandra Gadkari & Anr. ..Respondents

Mr. Shrivallabh Panchpor i/b. Radhika Panchpor for the Applicant.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 30th MARCH, 2021.**

P.C. :

1. The Petitioner has challenge dismissal of Civil Application No. 12488 of 2019 for non removal of office objections.
2. Brief facts necessary to decide the Petition are as under:

In the Petition filed under Article 227 of Constitution, the Petitioner had challenged the validity and legality of the Order dated 2.4.2018 in RCS No. 1764 of 2017 passed by Civil Judge, Junior Division, Pune. By order dated 25th January, 2019 this Court had permitted the Petitioner to remove all office objections on or before 5.4.2019 and the Petitioner was put to notice that failure to remove the office objections would result in dismissal of the writ petition without further reference to the Court. The Petitioner did not remove the office objections within the stipulated time, resulting in dismissal of the Petition.

3. The Petitioner filed Civil Application No.12488 of 2019 for restoration of the Petition, which was dismissed for non-removal of the office objections. The Office note records that the said civil application is filed beyond the limitation period and that no separate application was filed for condonation of delay.

4. By Order dated 7th January, 2020, the Registrar -Judicial, directed the Petitioner to remove the Office objections within four weeks. Non removal of office objections resulted in refusal of registration of the civil application. Ld. Counsel for the Petitioner submits that the restoration application was filed within 30 days from the date of dismissal of the petition. The Petitioner was therefore not required to file application for condonation of delay.

5. I have perused the records and considered the submissions advanced by learned Counsel for the respective parties. It is to be noted that in the Application No.12488 of 2019, the Petitioner has prayed for recall of order dated 25.01.2019. It is for this reason that the Registry has computed the period of limitation from 25th January, 2019.

6. As noted above, this Court, by order dated 25th January, 2019 had given time to remove office objections till 5th April, 2019, and the Petitioner was put to notice that the petition would be dismissed on failure to remove the office objections by 5th April, 2019. The Petition

was not dismissed on 25th January, 2019. Hence the challenge is not to the order dated 25th January, 2019, but to the dismissal of the Petition for non-removal of the office objection within the specified date i.e. 5th April, 2019. The period of limitation is therefore required to be computed from 5th April, 2019 and not from 25th January, 2019. Since the application was filed within 30 days from the date of dismissal of the application, the Petitioner was not required to file a separate application for condonation of delay. Hence the order dated 27th January, 2020 directing the Petitioner to remove office objection by filing application for condonation of delay is set aside. Civil Application No. 12488 of 2019 is restored to the file. Leave is granted to the Petitioner to amend the prayer clause (a) in Civil Application No.12488 of 2019.

7. Civil Application stands disposed of.

(ANUJA PRABHUDESSAI, J.)