

Bhogale

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

WRIT PETITION NO. 12842 OF 2019

Flushing Meadows Co-Operative Housing
Society Ltd., Nashik Through its Secretary
Shri Virash R. Shetty

.. Petitioner

vs.

District Deputy Registrar,
Co-operative Societies, Nashik

.. Respondent

Mr. Milind Sathaye I/b. Mr. Nikhil Vidwans for the Petitioner.

Mr. S.H. Kankal, AGP for the State.

CORAM : M.S.KARNIK, J.

DATE : FEBRUARY 1, 2021

P.C.:-

Heard learned counsel for the parties.

2. The Petitioner-Society by this Petition filed under Article 227 of the Constitution of India challenges the order dated 13.05.2019 passed by the Divisional Joint Registrar, Co-operative Societies, Nashik Division, Nashik rejecting the Revision filed by the Petitioner against the order dated 25.09.2017 passed by the District Deputy Registrar, Co-operative Societies, Nashik under Section 81(6) of the Maharashtra Cooperative Societies Act, 1960 ('the said Act' for short) and the correction order dated

08.11.2017. The Revision was filed under Section 154 of the said Act on 23.03.2018.

3. Learned counsel for the Petitioner submitted that the Petitioner-Society was under the impression that there was no delay in filing the Revision under Section 154 of the said Act. Accordingly statement was made in Revision Petition Memo that there was no delay in filing the Revision Application. According to the learned counsel for the Petitioner this was a mistake on the part of the Petitioner-Society and in fact there was a delay of around 37 days in filing the Revision. He prayed that he may be granted an opportunity for filing the application for condonation of delay before the Revisional Authority.

4. Learned AGP supported the order passed by the Divisional Joint Registrar, Co-operative Societies, Nashik Division, Nashik. In his submission it is the Petitioner who approached the Revisional Authority with the application that there was no delay. According to him the Authority rightly observed that there is a delay for which no explanation has been offered. There is no error in the impugned order as the Revision has been dismissed on the ground of delay.

5. Heard. Learned counsel for the Petitioner fairly submitted that there was an inadvertent mistake on the part of the Society in proceeding on the footing that there was no delay in filing the Revision. They now has been realised that there was a delay of around 37 days in filing the Revision. Considering that the delay is of 37 days only, it may not be appropriate to deny the Petitioner even an opportunity of explaining the same. In my opinion, an opportunity needs to be granted to the Petitioner to explain the delay in the interest of justice.

6. In this view of the matter, the impugned order is quashed and set aside. The matter is remitted back to the Revisional Authority for considering the Revision on its own merits and in accordance with law. The Petitioner-Society to file an appropriate application for condonation of delay which application be considered by the Revisional Authority on its own merits and in accordance with law. The Petitioner to appear before the Revisional Authority on 15.02.2021 at 11.00 a.m. along with the application for condonation of delay and the copy of this order, whereafter the Revisional Authority may fix the further schedule of hearing.

7. The Authorities are requested not to initiate any coercive action till the application for stay is heard by the Revisional

Authority. The Petitioner to make an application for stay also along with the condonation of delay application which may be dealt with on its own merits and in accordance with law.

8. The Writ Petition is disposed of.

(M.S.KARNIK, J.)

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