

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9807 OF 2021

CHABURAO RAJABHAU JADHAV
VERSUS
THE PARBHANI DISTRICT CENTRAL CO OPERATIVE BANK LTD
PARBHANI

...
Advocate for Petitioner : Mr. Majid Shaikh

.....
[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 5th AUGUST, 2022

ORDER :

1. The petitioner has challenged the ex-parte award passed by the Co-operative Appellate Court, Nanded, thereby directing recovery of Rs. 13,72, 424/- together with interest at the rate of 13% per annum from the petitioner.
2. The petitioner filed appeal before the Co-operative Appellate Court. Along with said appeal delay condonation application seeking condonation of delay of 897 days was filed by the petitioner. The Appellate Court rejected the delay condonation application. Hence, the present petition.
3. Heard the learned advocate for the petitioner. None appears for the respondent, though served. Even on last occasion, none appeared for the respondent.

4. Admittedly, ex-parte decision is rendered by the Co-operative Court against the petitioner thereby directing recovery of Rs. 13,72, 424/- together with interest at the rate of 13% per annum. The petitioner contends that as there was communication gap between his advocate and him, due to ill health and Covid-19 pandemic, he could not approach the Appellate Court within stipulated time.

5. The Co-operative Appellate Court, in view of settled legal position that delay should be liberally condoned, ought to have condoned the delay and should have given fair opportunity to the petitioner to contest the appeal on merits. The Appellate Court has adopted hypertechnical approach in refusing to condone the delay of 897 days. The impugned order therefore cannot be sustained. Hence, the following order:

ORDER

- I) The impugned order 03.08.2021, passed by Maharashtra State Co-operative Appellate Court, Mumbai, Bench at Aurangabad in Miscellaneous Application No. 7 of 2021, is hereby quashed and set aside.

- II) Miscellaneous Application No. 7 of 2021 is allowed subject to the petitioner paying cost of Rs. 10,000/-, to be deposited in the Appellate Court.

[NITIN B. SURYAWANSHI, J.]