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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5387 OF 2014

Sunil Dayaram Patil

PETITIONER

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....
Mr. R. P. Adgaonkar, Advocate for the petitioner
Mr. Y. G. Gujrathi, AGP for respondent - State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 3rd MARCH, 2022

ORDER :

1. At the outset, learned advocate for the petitioner seeks leave to correct prayer clause. Leave granted. Correction to be carried out forthwith.

2. Recovery certificate issued under section 101 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter for short "the said Act") against the petitioner is challenged by him by filing revision under section 154 of the said Act before the Divisional Joint Registrar, Co-operative Societies, Nashik / respondent No.1. Along with the revision, since there was delay in filing the revision, delay condonation application is filed. The delay condonation application is rejected by respondent No.1 on

the ground that 50% amount of the recovery certificate is not deposited by the petitioner and hence his application cannot be considered unless the petitioner deposits said amount. He, therefore, disposed of the revision petition.

3. Heard learned advocate for the petitioner and the learned Assistant Government Pleader for the respondents – State.

4. Learned advocate for the petitioner, by relying on decision of co-ordinate of this Court in ***"Vivek Bhila Patil and Another V/s State of Maharashtra" 2008 (3) Bom.C.R. 754***, has contended that, it is already held by this Court that bar of subsection 2-A of section 154 of the said Act applies for entertaining the revision, however the bar is not applicable for consideration of delay condonation application.

5. This Court in ***"Dilawar Hakim Shah V/s Special Recovery Officer, Chiplun Urban Co-operative Bank Ltd., and Others" 2006 (3) Mh.L.J. 256***, has held that, it cannot be said that revision is entertained unless the delay in filing it is condoned by making out sufficient cause.

6. The case of the petitioner is squarely covered by the above decisions.

7. In that view, writ petition is allowed. Impugned order dated 6th March, 2012 passed by respondent No.1 (Exhibit-C) is quashed and set aside. The matter is remanded back for decision on delay condonation application filed by the petitioner.

[NITIN B. SURYAWANSHI]
JUDGE

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