

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

WRIT PETITION NO. 222 OF 2022

UCO Bank	}	Petitioner
Versus		
Bank of India and Ors.	}	Respondents

Mr. Ronak Shah for the petitioner.
None for the respondents.

**CORAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE : JANUARY 13, 2022

P.C.:

1. In this application under Article 227 of the Constitution of India, an order dated April 11, 2019, passed by the Debts Recovery Appellate Tribunal at Mumbai [hereafter "the DRAT(M)", for short], is under challenge.
2. By the impugned order, the DRAT(M) dismissed an application for condonation of delay (Miscellaneous Application No. 718 of 2017) filed in Appeal No. 123 of 2017 on the ground that sufficient cause for condoning the delayed presentation of the appeal was not shown.
3. The order sought to be challenged in the appeal was passed by the Presiding Officer of the Debts Recovery Tribunal, Pune (hereafter 'DRT-P', for short) on April 25, 2016. The statutory period for presentation of an appeal, as allowed,

is 30 days. The petitioner did not apply for the certified copy within the period of limitation; instead, such application was made on June 4, 2016. The certified copy was delivered on June 24, 2016 and the appeal came to be presented sometime in June, 2017. The Chairperson of the DRAT(M) noted that although some explanation had been furnished as to how the petitioner dealt with the matter till August 9, 2016, but for the period thereafter till presentation of the appeal, no cause had been shown; therefore, question of examining the sufficiency thereof did not arise.

4. For the purpose of testing whether the order impugned deserves interference, we have looked into the application for condonation of delay that was filed before the DRAT(M). Paragraph 3 thereof reveals that the draft appeal was forwarded to the advocate engaged by the petitioner on August 12, 2016 with direction to file appeal before the DRAT(M). Thereafter, the advocate sent the draft of the appeal to the counsel for settling the draft, together with original papers and proceedings. However, the counsel, while shifting his office from Nariman Point to Fort area, misplaced the entire file containing the original papers and proceedings. Such misplacement appears to be the sheet anchor of the petitioner's claim as placed before the DRAT(M). However, neither is the counsel, who is alleged to have misplaced the original papers and proceedings, named in the application nor is any affidavit from his side on record supporting the statement made in paragraph 3 of the application.

5. We are of the opinion that the manner in which the application for condonation of delay was drafted does not inspire confidence for coming to the aid of a recalcitrant, indolent and tardy litigant like the petitioner. It is not in dispute that the order dated April 25, 2016 was passed by the Presiding Officer of the DRT-P in proceedings where the petitioner was a party. From the very inception after the said order was made, the petitioner seems to have slipped into slumber. There is no explanation in the application for condonation of delay as to why the application for certified copy was made beyond the period of limitation.

6. Having regard to the lackadaisical approach of the petitioner, the Chairperson of the DRAT(M) considered it inappropriate to exercise his discretionary power for condoning the delay in presentation of the appeal. In exercise of power of superintendence under Article 227 of the Constitution of India, the High Court interferes only if the subordinate Tribunal, in passing its order, adopts a wholly flawed process of reasoning or the approach adopted by it is utterly perverse. We do not see any reason to hold that the order impugned suffers from any such infirmity. There is, thus, no reason to interfere.

7. The writ petition stands dismissed. There shall be no order as to costs.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)

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