

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CIVIL APPLICATION (CAO) NO. 18 OF 2022

AND

M.C.A (ST.) NO. 17445 OF 2021 IN WRIT PETITION NO. 2464 OF 2021 (D)

(Shrikant Solar Power System ..vs.. State of Maharashtra, through the Tahsildar, Akola and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. V.K. Paliwal, Counsel for the applicant/petitioner.

CORAM : ROHIT B. DEO, J.

DATED : 31-01-2022

Hearing was conducted through video conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. This application is preferred seeking condonation of delay of 129 days in seeking review of the order dated 15-7-2021 rendered by this Court (Coram : N.B. Suryawanshi, J.) in Writ Petition 2464/2021.

3. Writ Petition 2464/2021 was preferred challenging the communication dated 24-6-2021 issued by the Tahsildar, Akola purporting to direct the Circle Officer, Akola City and Deputy Superintendent of Land Records, Akola to be present at the spot along with the representative of The Yavatmal Urban Cooperative Bank Ltd., Yavatmal, Branch Akola to facilitate the taking over of possession of the secured asset.

4. Writ Petition 2464/2021 was disposed of as withdrawn with liberty to the petitioner to pursue alternate statutory remedy.

5. Review is sought of the order of disposal of writ petition on the ground that the writ petition was withdrawn by the Counsel without instructions.

6. Considering the statement on oath, I am inclined to condone the delay and to further allow the review and restore Writ Petition 2464/2021 to file.

Writ Petition 2464/2021 :

The challenge is to a letter issued by the Tahsildar calling upon his subordinate officers to remain present at the spot to enable the secured creditor to take possession of the secured asset.

2. Apart from the fact that the letter is issued on 24-6-2021, I note that the substantive order of the Additional District Magistrate dated 23-3-2021, pursuant to which order, the letter impugned is issued, is not challenged.

3. I further note that the petitioner suffered a recovery certificate under Section 101 of the Maharashtra Co-operative Societies Act, 1960 (Act) and preferred a revision under Section 154 of the said Act, which came to be dismissed by the Joint Registrar, Co-operative

Societies, Nagpur vide order dated 09-4-2021 since the petitioner did not make the mandatory pre-deposit under Section 154 (2A) of the Act.

4. In this view of the matter, it would be necessary to direct the petitioner to deposit Rs.25,00,000/- (Rupees Twenty Five Lac) in this Court within the next two weeks, in order to demonstrate *bona fides*. I note that the Joint Registrar, Co-operative Societies, Amravati has recorded that as on 10-12-2020 the petitioner was liable to pay the bank Rs.48,02,319/- (Rupees Forty Eight Lac Two Thousand Three Hundred Nineteen).

5. If the amount of Rs.25,00,000/- (Rupees Twenty Five Lac) is deposited within the next two weeks, and affidavit of compliance is filed, let notice be issued to the respondents, returnable in the next four weeks.

6. If the amount of Rs.25,00,000/- (Rupees Twenty Five Lac) is deposited within the period stipulated, there shall be stay to recovery of the balance amount, till the next date of hearing.

JUDGE

adgokar