

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

WRIT PETITION NO. 2393 OF 2016

Kolhapur District Central Co-Operative Bank ... Petitioner
Ltd.

Versus

Maharashtra State Co-Op. Agril. And Rural ... Respondents
Development Bank, Through Shri Vijay B.
Mohite and Ors.

Mr. S. R. Ganbavale a/w. Mr. Kush M. Lahankar, for the Petitioner.
Mr. S. D. Rayrikar, AGP for Respondent No. 3

CORAM: G. S. KULKARNI, J.
DATED: JANUARY 06, 2023

PC.

1. Heard Mr. Ganbavale, learned Counsel for the petitioner. The order impugned in this petition is an order dated 27 February 2015 passed by the learned Member, Maharashtra State co-op. Appellate Court, Mumbai, Bench Aurangabad, on deputation at Pune (Kolhapur), whereby the restoration application No.6 of 2014 filed by the petitioner principally against Respondent No.1 – Maharashtra State Co-Op. Agricultural And Rural Development Bank, has been dismissed on the ground that there was delay of 20 days in filing the restoration application. Admittedly, the order is ex-parte to the only contesting respondent namely Maharashtra State Co-Op. Agricultural And Rural Development Bank.

2. Mr. Ganbavale, learned Counsel for the petitioner in assailing the impugned order would contend that sufficient reasons were set out, as to why there was delay of 20 days in filing the restoration application.

He submits that the only reason set out in the impugned order at paragraphs 6 and 7 is that no formal application was filed for the alleged delay. Mr. Ganbavale, learned Counsel for the petitioner submits that an opportunity be granted to the petitioner to move a formal application and if such an application is filed, no prejudice would be caused to the contesting respondent and the contesting respondent would be heard on such application.

3. In my opinion, it would be appropriate to give an opportunity to the petitioner to appear before the Co-operative Appellate Authority by moving an appropriate application and justifying the delay in filing the restoration application. The member of the Co-operative Court shall consider such application on its own merits and decide it in accordance with law. All contentions of the parties are expressly kept open.

4. Needless to observe that the present order disposing of the petition is passed as the contesting respondent was not represented when the impugned order was passed, hence, there shall not be any prejudice if the contesting respondent is heard on any application for condonation of delay which may be filed by the petitioner. The impugned order is accordingly set aside. The petitioner is permitted to file an application for delay condonation which be considered by the Co-operative Appellate Court on its own merits, as observed above.

5. Disposed of in the above terms. No costs.

(G. S. KULKARNI, J)