

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

WRIT PETITION NO.13089 OF 2023

Baliram Vithoba Doke	...Petitioner
Versus	
Samata Gramin Bigarshethi Sahakari Pathashanstha Maryadit, Mangalwedha, Dist. Solapur.	...Respondent

Mr. Sarang S. Aradhye a/w. Ms. Gauri Velankar, Ms. Shruti Kothavade and
Mr. Shantanu Gurav, for the Petitioner.

Mr. Suhas S. Inamdar, for the Respondent.

CORAM : MADHAV J. JAMDAR, J.

DATED : 20th OCTOBER 2023

P.C. :

1. Heard Mr. Sarang Aradhye, learned counsel appearing for the Petitioner and Mr. Suhas Inamdar, learned counsel appearing for the Respondent.
2. In this Writ Petition filed under Article 227 of the Constitution of India challenge is to the order dated 21st June 2022 passed by learned Judge, Cooperative Court, Solapur by which the application bearing Exhibit-22 filed by the present Petitioner in Cooperative Case No.123 of 2019 has been dismissed. The Petitioner is Opponent No.1

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in said Cooperative Case No.123 of 2019 filed in the Cooperative Court, Solapur. The said Cooperative Case was filed on 12th March 2019 and present Petitioner has been directed to file written statement on or before 15th October 2019. As written statement was not filed on 15th October 2019, the learned Judge passed the order that dispute to proceed without written statement against the Opponent. Thereafter, on 6th February 2020, Exhibit-15 application was filed by the present Petitioner i.e. Opponent No.1 in said Cooperative Case inter alia praying that written statement be taken on record and delay in filing the written statement be condoned. The said Exhibit-15 application was dismissed for want of prosecution by order dated 23rd November 2021. Thereafter, the Petitioner i.e. Opponent No.1 filed application bearing Exhibit-22 on 8th February 2022 praying that, order dated 23rd November 2021 passed on Exhibit-15 application, dismissing for default said application be set aside and said application be restored to the file. By the impugned order, said application for restoration of Exhibit-15 application has been rejected inter alia on the ground that once the Exhibit-15 application is dismissed for want of prosecution, there is no power in the learned Court to restore the same. However, the learned Judge

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has overlooked Regulation 16 of the Maharashtra State Co-operative Tribunal Regulations, 1962 which gives specific power.

3. On the merits of Exhibit-22 application although, the learned counsel appearing for the Respondent No.1 strongly opposes the application, there are valid reasons given in the application dated 8th February 2022.

4. Accordingly, the impugned order dated 21st June 2022 passed on Exhibit-22 in Cooperative Case No.123 of 2019 by the learned Judge, Cooperative Court, Solapur is quashed and set aside and said Exhibit-22 application is allowed, subject to payment of cost of Rs.500/- to be deposited in the Cooperative Court, Solapur within a period of eight weeks from today. On deposit of said cost, the said application bearing Exhibit-15 in Cooperative Case No.123 of 2019 stands restored to file and to be decided in accordance with law.

5. The Writ Petition is disposed of in above terms.

6. It is clarified that this Court has not considered the merits and all contentions on merits including the merits of Exhibit-15 application are expressly kept open.

[MADHAV J. JAMDAR, J.]