

SA Pathan

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

WRIT PETITION NO.1324 OF 2020

SHABNOOR
AYUB
PATHAN
ADVOCATE
SHEKHAR
CHANDRA
SHARMA
ADVOCATE
SHEKHAR
CHANDRA
SHARMA
ADVOCATE

The Vishweshwar Sahakari Bank
Limited Pune Through

S. M. Bankar & Anr

... Petitioners

V/s.

Vasudev Giridhari Suryawanshi & Ors

... Respondents

Mr. S. S. Panchpor i/by Ms. Radhika Shripad Panchpor,
for Petitioners.

Mr. Sarthak S. Diwan, for Respondent No.1.

Mr. R. S. Pawar, AGP for State/Respondent Nos.8 & 9.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 31, 2024

P.C.:

1. Rule.

2. Rule is made returnable forthwith.

3. The petitioner/bank is challenging the order passed by the Divisional Joint Registrar condoning delay of 2348 days in challenging the certificate issued under Section 101 of the Maharashtra Cooperative Societies Act, 1960 and 2269 days in challenging order of attachment under sub-Rule (11) of Rule 107 of the Maharashtra Cooperative Societies Rules, 1961.

4. The application for condonation of delay mentions following reasons as sufficient cause:

i) The applicant was not properly served with the proceedings under Section 101 of the Maharashtra Cooperative Societies Act, 1960.

ii) The principal borrower settled the account with the petitioner/bank.

iii) The applicant was pursuing his claim before the various authorities.

iv) He was advised to obtain permission before instituting the proceeding.

5. The Revisional Authority by the impugned order condoned the delay in filing the revision application challenging certificate under Section 101 of the Maharashtra Cooperative Societies Act, 1960, holding that the respondent was absent during hearing of the proceeding under Section 101 of the Maharashtra Cooperative Societies Act, 1960. The principal borrower settled the dispute with the bank and the delay is not deliberate. The reasons assigned in the application constitute sufficient cause.

6. On perusal of the reasons, in my opinion, the reasons assigned by the applicant for condonation delay of 2348 days in challenging certificate under Section 101 of the Maharashtra Cooperative Societies Act, 1960 cannot be termed as sufficient cause. It is not the case of the respondent that he was not served with the summons of proceedings under Section 101 of the

Maharashtra Cooperative Societies Act, 1960. If, he had knowledge of the proceeding, it was his duty to appear or keep track on the proceeding. It also appears that he was having correspondence with various authorities from 2008 till 2009 which negates the contention that he was not aware of issuance of certificate under Section 101 of the Maharashtra Cooperative Societies Act, 1960. The other reasons mentioned in the application cannot be termed as sufficient cause for condonation of delay of 2348 days in challenging the certificate under Section 101. Therefore, the Revisional Authority was not justified in condoning the delay of 2348 days in challenging recovery certificate under Section 101. Hence, following order:

i) Rule is made absolute in terms of prayer clause (a).

7. The writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)