



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9243 OF 2021

Kazi Mohammad Hafizoddin Mohammad
Zhiroddin Died Thr Lrs

VERSUS

The Postman Co-op. Housing Society Ltd
Parbhani Thr Its Chairman And Others

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Mr. P. K. Deshmukh, Advocate for the Petitioner
Mr. S. Y. Shinde h/f Mr. S. S. Nade, Advocate for
Respondent No. 1
Mr. S. S. Shaikh, Advocate for Respondent No. 3 (VC)
Mr. M. B. Sandanshiv, Advocate for Respondent Nos. 4
and 5

CORAM : R. M. JOSHI, J
DATE : OCTOBER 09, 2025

PER COURT :

1. By consent of both sides, heard finally at the stage of admission.

2. This Petition takes exception to the order dated 22.06.2021 passed by the Co-operative Appellate Court dismissing Misc. Application No. 05/2021 filed for condonation of delay of 6 years and 112 days in filing application for restoration of delay, which was filed belatedly.

3. Petitioner claims to be son of original disputant Kazi Mohammad Hafizoddin who had filed

dispute before the Co-operative Court bearing no. CCP-76/2007. This dispute came to be decided on merit on 16.06.2010. Being aggrieved by the said order, Appeal sought to be filed in the year 2012 with application for condonation of delay over two years in filing of the Appeal. This Appeal came to be dismissed for want of prosecution on 05.07.2014. Application bearing No. 5/2021 came to be filed on 02.02.2021 for restoration of the application for condonation of delay. This application came to be filed by the Petitioner who is son of original disputant.

4. It is the case of the Petitioner that unfortunately his father died on 02.09.2013, therefore, he had no knowledge of the proceedings filed by his father. He, however, claims in the application that in November, 2020 he came to be know about his father filing the said proceedings and thereafter, obtained certified copies and then filed application on 02.02.2021. Learned Member of the Co-operative Appellate Court finds the delay not being satisfactorily explained and hence, rejected the application by impugned order 21.06.2021.

5. Learned Counsel for the Petitioner submits that the delay condonation is required to be done liberally and the Authority cannot be made to suffer even for his own lapse unless the prejudice is caused to the other side. In order to support this submission, he placed reliance on the judgment of Coordinate Bench of this Court in case of Kalidas Dinkar Wani vs. Agrasen Urban Co-operative Credit Society Ltd and Ors, 2011 (2) Bom.C.R. 642, wherein reference is made to the judgment of Hon'ble Supreme Court with observations that in every case of delay, there can be some lapse on the part of the litigant concerned to shut the door against him. It is his submission that in facts of the case delay deserves to be condoned by setting aside the impugned order.

6. It need not be emphasized that the length of delay is not relevant, however, even for a short period of delay, the delay must be satisfactorily explained. If it is the case of the Petitioner that his father died in September, 2013, it becomes absolutely necessary for him to plead as to how he came to know of proceedings filed by his father, which dismissed for

want of prosecution. There is no whisper about the same in the application filed before the Co-operative Appellate Court.

7. If such condonation is accepted, then it will give license to unscrupulous litigants to simply make casual statement about the knowledge of the proceedings, which are dismissed even long back and to seek condonation of delay therefor. This is never aimed by the legislation or by the Courts in India.

8. Having regard to the facts of the case, since the Petitioner has failed to substantiate the satisfactory reason for condonation of delay of over six years, this Court finds no perversity in the impugned order to cause interference therein. In the result, Petition stands dismissed.

9. Pending civil application(s), if any, stands disposed of.

(R. M. JOSHI, J.)