

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11455 OF 2025**

Administrator,
Shri. Basveshwar Co-operative
Credit Society Ltd., Having office at
1062, D Ward, Teli Galli,
Shukravar Peth, Kolhapur.

.....Petitioner

Vs.

1. Karveer Chemicals Pvt. Ltd.,
Through Managing Director,
Saigonda Raigonda Patil,
Age: Adult, Occu: Business,
R/o.- B-1, Mahagaokar Complex,
Rajaram Road, Kolhapur.

2. Saigonda Rajgonda Patil,
Age: Adult, Occu.: Business,
R/o.- B-1, Mahagaokar Complex,
Rajaram Road, Kolhapur.

.....Respondents

Mr. Ruturaj Pradip Pawar, for the Petitioner.

Mr. Sameer Tendulkar (Through VC), for the Respondents.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 1st OCTOBER 2025

JUDGMENT :-

1. Petitioner impugns order dated 30th August 2019 passed by Member, Maharashtra State Co-operative Appellate Court, Mumbai Bench at Pune (For short, '**Appellate Court**') in Revision No.113 of 2018, thereby modifying order dated 30th November 2018 passed by

Judge, Co-operative Court, Kolhapur in Miscellaneous Application No.25 of 2015.

2. Petitioner-Co-operative Credit Society suffered a decree in C.C.S.No.959 of 2005, whereby Petitioner was directed to pay damages for alleged illegal possession of vehicle of Respondent. Petitioner filed application No.25 of 2015 for setting aside ex-parte decree dated 16th November 2013 passed by Co-operative Court. Since there was delay in filing application, Miscellaneous Application No.25 of 2015 was filed praying to condone the delay. Learned Co-operative Court allowed application vide order dated 30th November 2018 and condoned delay, subject to payment of Rs.4,000/.

3. Respondent challenged said order by filing Revision Application No.113 of 2018 before Appellate Court, who partly allowed Revision Application, while maintaining order condoning delay, however, increased costs amount to Rs.20,000/- with further direction to Petitioner to earmark decretal amount to be paid as on that date.

4. Learned Advocate appearing for Petitioner submits that Co-operative Court had exercised discretion while condoning the delay,

subject to condition of payment of costs of Rs.4,000/-. Petitioner had already paid costs amount. Further, while granting stay to ex-parte decree, pending delay condonation application, Petitioner was directed to deposit amount of Rs.2,50,000/-. That amount had already been deposited. In this background, there was no propriety for enhancing the costs and further direction that to earmark the decreetal amount to be paid as on date.

5. Learned counsel appearing for Respondents supports the impugned order.

6. On perusal of reasons recorded in the impugned order, it is discernible that Appellate Court accepted the contentions of Petitioner that their absence during proceedings of the suit was not intentional. For act of employees, Petitioner-Society shall not be made to suffer. With these observations, Appellate Court confirmed order condoning delay, however, in facts of case, enhanced cost to Rs.20,000/- instead of Rs.4,000/-. However, there is absolutely no reason as to why further direction to earmark the decreetal amount to be paid have been issued.

7. Revision Application was filed against order condoning delay.

The core issue that requires consideration in this case is whether sufficient case is made out to condone the delay. Appellate Court concurred with the opinion of the Co-operative Court that Petitioner-Society has given sufficient cause for condoning the delay. The costs of Rs.4,000/- was awarded to Respondent to balance equities and address inconvenience caused to Respondents. According to Appellate Court, in facts of case, the costs was inadequate and, therefore, it was enhanced to Rs.20,000/-. This Court finds that Appellate Court had absolutely no reason to issue further direction to Petitioner to earmark decretal amount. Such direction may be appropriate, when Court considers issue of grant of stay to decree passed. Such is not a case here. In that eventuality, direction to earmark decretal amount, as a condition to condone delay can not be countenanced.

8. In result, Writ Petition is allowed.
9. The impugned order dated 30th August 2019 is modified.
10. The direction to the extent of earmarking decretal amount is quashed and set aside. Rest of the order is maintained as it is.

(S. G. CHAPALGAONKAR, J.)