

Jvs.

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

WRIT PETITION NO. 2441 OF 2025

M/s. Dns Power System & Anr.	}	Petitioners
		Versus
State of Maharashtra & Ors.	}	Respondents

Dr. Uday Warunjikar i/b. Mr. Jeish Dinesh Jain
and Mr. Hrishikesh Nabar for petitioner.

Mr. O. A. Chadurkar, Additional Government
Pleader with Mr. T. J. Kapre, AGP for
respondents 1, 2 & 5.

Mr. Sarang Satish Aradhye with Ms. Shruti S.
Kothavade for respondents 3 & 4.

**CORAM: ALOK ARADHE, CJ. &
BHARATI DANGRE, J.**

DATE: FEBRUARY 20, 2025

ORDER: (Per Chief Justice)

- 1.** Heard learned counsel for the parties.
- 2.** Rule. With consent of learned counsel for the parties, Rule is made returnable forthwith and heard finally.
- 3.** By this writ petition, the petitioners have challenged the validity of the impugned order dated 12th June 2023 passed by the District Magistrate under section 156 of the of the Maharashtra Co-operative Societies Act, 1960 (the Act of 1960). The petitioners are also aggrieved by the notice dated 22nd January 2025 issued by the Tahsildar, Haveli, Pune, by which, possession is sought to be taken by tomorrow, i.e., 21st February 2025 from the petitioners in respect of the residential premises in their occupation.

4. Facts giving rise to filing of the writ petition, briefly stated, are that on 27th December 2014, a term loan of Rs.40 lakhs and cash credit of Rs.90 lakhs was sanctioned to the petitioners by the Jijamata Mahila Sahkari Bank Limited. On 31st March 2017, the cash credit limit of Rs. 90 lakhs was converted into the term loan. The petitioners, vide communications dated 31st March 2020 and 4th June 2020, requested the bank to grant moratorium during the period of COVID-2019.

5. The petitioner defaulted in making repayment of the amount of loan to the bank. Thereupon, the Deputy Registrar, in exercise of powers under section 101 of the Act of 1960, passed an order on 17th March 2022. The petitioner challenged the validity of the aforesaid order before this Court in Writ Petition No. 9419 of 2023, which was disposed of by a Division Bench of this Court by an order dated 4th August 2023 with liberty to the petitioners to take recourse to the remedy of revision prescribed under the Act of 1960.

6. The petitioners, thereafter, filed a revision before the Divisional Joint Registrar along with an application for condonation of delay on 9th October 2024. The Divisional Joint Registrar has heard the arguments on the application for condonation of delay and has reserved the same on 7th January 2025. During the pendency of the revision, the Tahsildar has issued the impugned notice dated 22nd January 2025, by which possession in respect of the residential premises in occupation of the petitioners is sought to be taken tomorrow, i.e., 21st February 2025. Hence this petition.

7. Learned counsel for the petitioners submitted that the petitioners have, in terms of the liberty granted to them by this

Court, availed of the statutory remedy. The Divisional Joint Registrar has heard the arguments on the application for condonation of delay and has reserved the same for orders on 7th January 2025 and despite lapse of a period of five weeks, orders on the application have not been passed. It is, therefore, submitted that the writ petition be disposed of with a direction to the Divisional Joint Registrar to decide the application for condonation of delay in a time bound manner and till then, the execution of the notice dated 22nd January 2025 be kept in abeyance.

8. Learned Additional Government Pleader appearing on behalf of respondents 1, 2 and 5 has submitted that the Divisional Joint Registrar shall decide the application for condonation of delay and subject to outcome of the same, the application for stay and the revision within such time as may be prescribed by this Court.

9. Learned counsel for respondent no. 4 opposed the submissions made by the learned counsel for the petitioners and contended that the petitioners have not repaid the amount of loan and despite opportunity being granted by the Division Bench of this Court to the petitioners on 4th August 2023, have filed revision belatedly on 9th October 2024.

10. We have considered the rival submissions and perused the record.

11. An aggrieved person cannot be deprived of his right to a remedy. In the instant case, admittedly, in terms of the liberty granted by a Division Bench of this Court on 4th August 2023 in Writ Petition No. 9419 of 2023, the petitioners have taken recourse to the statutory remedy by filing a revision. It is not in

dispute that the arguments on the application for condonation of delay have been heard on 7th January 2025 and the same has been reserved for orders.

12. Therefore, in the peculiar facts and circumstances of the case, we deem it appropriate to direct the Divisional Joint Registrar to decide the application seeking condonation of delay within a period of two weeks from today.

13. Needless to state that in case the application for condonation of delay is allowed, the Divisional Joint Registrar shall take up the application for stay filed by the petitioner and shall decide the same after giving opportunity of hearing to the parties within a period of one week therefrom.

14. Till the application for condonation of delay and the application for stay is decided, the impugned notice dated 22nd January 2025 shall not be given effect to. Thereafter, it will be open to respondent no. 4 to proceed against the petitioners afresh.

15. With the aforesaid directions, the writ petition is disposed of.

16. It is made clear that this Court has not expressed any opinion on the merits of the case.

JAYANT
VISHWANATH
SALUNKE

Digitally signed by
JAYANT VISHWANATH
SALUNKE
Date: 2025.02.20
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(BHARATI DANGRE, J.)

(CHIEF JUSTICE)