

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4277 OF 2025

Dnyankrupa Sahakari Patpedhi  
Maryadit, Mumbai.

... Petitioner

V/s.

Mohd. Hussain Mohd. Kasam  
Machiwala & Ors.

... Respondents

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GANESH  
KULKARNI  
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Mr. Pradeep Gole with Mr. Suraj Shejwal for the  
petitioner.

Mr. Sandeep Bhupat Satkar for respondent Nos.1 and  
2.

Mr. N.C. Walimbe, Additional G.P. with Mr. S.P. Kamble,  
AGP for respondent Nos.3 & 4-State.

CORAM : AMIT BORKAR, J.

DATED : APRIL 2, 2025

**PC.:**

1. By the impugned order, the Divisional Joint Registrar has granted a stay to the recovery certificate issued under Section 101 of the Maharashtra Cooperative Societies Act, 1960 ("the MCS Act"). It is material to note that the said recovery certificate is sought to be challenged by the borrower by way of a revision application, which is admittedly filed after delay of 658 days. In such a situation, grant of interim relief in the form of stay of recovery must be examined on the touchstone of delay, conduct of the parties, and compliance with the mandatory statutory

requirements, including Section 154(2A) of the MCS Act.

2. According to the petitioner-society, the total recoverable dues as on the date of filing of the revision application amount to Rs.1,33,94,441/-, whereas the borrower has deposited a sum of Rs.48,50,263/-. Prima facie, it appears that the deposit made is substantially short of the mandatory threshold of 50% of the recoverable amount as contemplated under Section 154(2A) of the MCS Act. The said provision imposes a statutory obligation upon a person challenging the order or certificate to deposit 50% of the recoverable amount as a condition precedent for consideration of the revision application on merits. The object behind such a requirement is to ensure that frivolous or dilatory tactics do not frustrate the legitimate claims of cooperative societies, and that recovery proceedings are not unduly obstructed.

3. Be that as it may, in view of the admitted delay of 658 days in filing of the revision application, the Divisional Joint Registrar is under a statutory and administrative obligation to decide the application seeking condonation of delay expeditiously. It is therefore directed that the Divisional Joint Registrar shall take up and decide the application for condonation of delay within a period of two weeks from the date on which the parties appear before him. Needless to state, while deciding the said application, the Divisional Joint Registrar shall consider whether the borrower has disclosed sufficient cause to warrant condonation of such delay, and whether the interest of justice would be served by entertaining the revision.

4. The parties are directed to appear before the Divisional Joint Registrar on 7th April 2025. It shall be open to the parties to submit all relevant documents and make oral submissions in support of their respective contentions.

5. In the event the Divisional Joint Registrar condones the delay and decides to entertain the revision application on merits, it shall be incumbent upon the borrower to comply with the requirements of Section 154(2A) of the MCS Act within such period as may be stipulated by the Divisional Joint Registrar. It is clarified that the continued operation of the stay granted by the impugned order shall be conditional upon strict compliance with the statutory mandate of depositing 50% of the recoverable dues. In the event of default or failure on the part of the borrower to deposit the said amount within the time so fixed, the interim stay granted to the recovery certificate shall automatically stand vacated, without further reference to this Court.

6. With the aforesaid clarification and directions, the writ petition stands disposed of. There shall be no order as to costs.

**(AMIT BORKAR, J.)**