**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**BENCH AT AURANGABAD**

**WRIT PETITION NO. 6382 OF 2024**

The Nanded District Central Co-op.
Bank Ltd. Nanded through its
Assistant Manager .. Petitioner

**Versus**

Rajesh Kishorlal Shrma and others .. Respondents

Shri Kamlakar J. Suryawanshi, Advocate for the Petitioner.
Shri S. B. Ghatol Patil, Advocate for the Respondent No. 1.
Shri M. D. Godhamgaonkar, Advocate for the Respondent No. 7

**CORAM : AJIT B. KADETHANKAR, J.**
**DATE : 06TH OCTOBER, 2026.**

**ORDER :**

. In view of the remark that the respondent No. 4 refused to accept the Court notice, the service is held to be completed.

2. Feeling aggrieved by the order dated 27.04.2023 passed by the learned Member, Maharashtra State Co-operative Appellate Court, Mumbai Bench at Aurangabad in Misc. Application No. 11 of 2023, the respondent No. 1 therein is before this Court. The present respondent No. 1 – applicant before Cooperative Appellate Court challenged the judgment and award dated 18.11.2006 passed by the Co-operative Court, Nanded in Dispute No. 162 of 1995 by delay of almost seventeen (17) years.

3. Obviously the appeal was time barred. Therefore, the applicant filed Misc. Application No. 11 of 2023 seeking condonation of delay. The petitioner that is the bank ultimately opposed the said application.

4. After hearing the parties the Appellate Court pleased to render a finding that there is absolutely no reason, nor a justifiable explanation for which the delay could be condoned. Despite that the Appellate Court with an object to give fair opportunity to the applicant to contest the matter on merits allowed the delay condonation application, however, make it '<u>subject</u>' to deposit of cost worth Rs. 25,000/- with the bank on or before 26.06.2023.

5. The applicant therein/present respondent No. 1 failed to pay said cost within the given time. Therefore Misc. Application No. 121 of 2024 was filed seeking extension of time to pay the cost. On 10.12.2024 the Appellate Court extended the time till 31.12.2024, subject to additional cost of Rs. 5,000/- to be deposited on or before 31.12.2024.

6. Feeling aggrieved by these two orders, the petitioner – bank is before this Court.

7. Shri Suryawanshi, learned advocate for the petitioner submits that the Appellate Court erroneously exercised its jurisdiction to condone the delay. He points out that there is

absolutely no explanation for which the delay could have been condoned. Although the Appellate Court has condoned the delay, but it was subject to payment of cost. The cost was neither paid on or before given date, nor is paid even till the extended date. Thus he submits that the impugned order be quashed and set aside.

8. Shri Ghatol Patil, learned advocate for the applicant – present respondent No. 1 submits that due to medical unfitness of the respondent No. 1 cost could not be paid within the given time. On query Shri Ghatol Patil submits that even till today also the cost is not paid.

9. In view of this and particularly in the light of rider imposed by the learned Member of the Cooperative Appellate Court that the condonation was subject to payment of cost, obviously the order condoning delay has lost its significance. To sum up, the delay cannot be held to have been condoned for the reason that the applicant therein failed to pay the cost as was directed by the Cooperative Appellate Court. In view of this there is no need to pass any further order. No further extension shall be granted by the Co-operative Appellate Court.

10. The writ petition stands disposed of by maintaining the judgment and order dated 18.11.2006 passed by the Cooperative Court, Nanded in Dispute No. 162 of 1995.

**[AJIT B. KADETHANKAR, J.]**

bsb/-