

MPBalekar

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

WRIT PETITION NO. 985 OF 2026

Komal Devidas Pol	... Petitioner
V/s.	
Pawan Sahakari Patpedhi Maryadit and Ors.	... Respondents

Mr. Ashok M. for the petitioner.

Mr. Dilip B. for the respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : MAY 4, 2026

P.C.:

1. **Rule.** Rule is made returnable forthwith.
2. The present writ petition is raising challenge to one order passed by the Co-operative Appellate Court, and this Court is required to see whether such order is proper or not in law. The said Appellate Court has rejected the application of the petitioner wherein request was made for condonation of delay of about 190 days. This delay was in filing appeal against the earlier decision given in dispute under Section 91 of the Maharashtra Co-operative Societies Act, 1960. By that earlier decision, dispute filed by the respondent society, namely Pawan Sahakari Patpedhi Maryadit, was allowed and decree has been passed directing present petitioner to repay amount of Rs.3,61,832/- together with interest at high rate of 19% per annum. Therefore, consequence of rejection of delay application is serious, because petitioner is

prevented from challenging such financial liability before appellate forum. Hence, this Court finds that issue affects substantive right of appeal.

3. The petitioner has attempted to explain delay by placing certain personal circumstances. As stated in the application, father of petitioner was suffering from illness on account of old age and there was no other family member available to take proper care. It is further stated that father was admitted in Wockhardt Hospital and thereafter expired on 31 October 2022. Because of this situation, petitioner claims that he was occupied in attending father and could not take steps for filing appeal within time. This Court finds that such explanation relates to family hardship and medical condition, which generally cannot be ignored lightly. When person is facing such situation in family, his attention naturally diverts from legal proceedings. Therefore, explanation carries some natural probability and human conduct.

4. The Appellate Court, however, has not accepted this explanation. It has taken view that impugned order was passed on 31 March 2022, but application for certified copy was made only on 20 June 2022. According to Appellate Court, this period of around two and half months remained unexplained and therefore entire delay becomes doubtful. This reasoning shows that Appellate Court has adopted strict approach by examining each segment of delay separately. However, in doing so, it appears that broader circumstances placed by petitioner were not given sufficient weight. The Court has focused more on initial period of inaction rather than considering overall cause and surrounding

facts. Such approach sometimes results in denial of opportunity of hearing on merits.

5. On careful perusal of impugned order and material placed, this Court is of opinion that explanation furnished by petitioner cannot be straightaway termed as false or mala fide. Overall cause shown appears to be genuine in nature. The Court cannot ignore that dispute involves recovery of amount, and petitioner is asserting that such liability itself is not properly incurred. In such situation, denial of appeal on technical ground of delay may result in injustice.

6. This Court also considers that prejudice to respondents can be balanced. The delay is not of such nature which cannot be compensated. By imposing reasonable cost, inconvenience caused to respondents can be addressed. Therefore, interest of justice requires that petitioner be given opportunity to prosecute appeal on merits.

7. Accordingly, writ petition deserves to be allowed by setting aside impugned order, however subject to payment of cost of Rs.2,000/-. The petitioner is therefore directed to pay cost of Rs.2,000/- to respondents within period of four weeks from today.

8. In view of above discussion and findings, writ petition stands disposed of in aforesaid terms. Rule is made absolute accordingly.

(AMIT BORKAR, J.)