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**MAHARASHTRA STATE CO-OP. APPELLATE COURT MUMBAI, BENCH
 AT AURANGABAD
 (Before Smt. S. R. Pawar Member)**

M.A. No.16/2026

*Pandit Dindayal Nagari Sahakari,
 Patsanstha Ltd., Anandibajar Ahmednagar,
 Tq. & Dist. Ahilyanagar (Ahmednagar)
 Through its Manager.
 Nilesh Govind Late,
 Age : 49 years, Occu. Service,*

..... Applicant.

VERSUS

*Keshav Bhausahab Kale,
 Age : 52 years, Occu. Business,
 R/o. Plot No.11A, Vidyut Amol Vihar,
 Rasane Nagar, Savedi,
 Tal. & Dist. Ahilyanagar.*

..... Respondent.

*Mr. S. R. Andhale Ld. Advocate for the Applicant.
 Mr. K. B. Jadhav, Ld. Advocate for the Respondent.*

**AURANGABAD.
DATE 01.07.2026.**

ORAL JUDGMENT

(Dictated and pronounced in the open court)

1) *Perused the Misc. Application. Heard Ld. Advocate Mr. S. R. Andhale, for the applicant, Mr. K. B. Jadhav, Ld. Advocate for the Respondent.*

2) *Being aggrieved and dissatisfied by the exparte Judgment and award dated 17.01.2025 in dispute No.159/2023 by the Cooperative court at Ahmednagar, the applicant intent to file an appeal. As there is a delay of 1 year and 10 days in presenting the appeal, the present application has been filed by the applicant for condonation of delay.*

3) *By filing the application, it is contended by the applicant that, the respondent herein had filed the dispute against the applicant for settlement of loan account as well as declaration and permanent injunction. In the said matter summons were duly not served upon the applicant and the applicant was unaware about the dispute thus could not contest the matter on merits and dispute was decided exparte by the trial court by the impugned judgment the trial court restrained the applicant society from recovering any amount from the disputant / respondent till settlement of loan account.*

4) *It is contended that for the first time applicant came to know about the judgment when the respondent informed the applicant about the judgment on 31.07.2025. Thereafter, the applicant society provided sufficient time to the disputant / respondent to comply the judgment passed by the trial court. However, despite being granted time the respondent did not take steps. Thus, the applicant approached to the Advocate and as per the directions of the Advocate applicant applied to the trial court for certified copies. It require some time to collect the copy and further to take decision to file an appeal. After collecting all the document the applicant supplied the same to the Advocate but as during the said period the renovation work of the office of Advocate was going the documents provided by the applicant were misplaced and few days were laps in search. In all this process the delay of 1 year and 10 days caused in filing the appeal.*

5) *It is contended that, if the delay consider from the date of knowledge then there is a hardly delay of 90 days in presenting the appeal, but if the delay is considered from the date of judgment then there is a delay of 375 days which is not intentional but circumstantial. The applicant has good case on merits. If the delay is not condoned the applicant will be permanently precluded from raising its stand on merits. But if the delay condoned no harm or prejudice will be caused to the respondent, on all these grounds the applicants urged for condonation of delay.*

6) *Pursuant to the show cause notice issued by this court the respondent has appeared through Ld. Advocate Mr. K. B. Jadhav and filed reply at Exhibit 14 and thereby strongly resisted the Misc. application on various grounds. It is the contention of the respondent that, 'the application filed by the applicant is not legal and valid, same is after thought'. The ground stated by the applicant are not cogent and convincing and hence the application needs to be rejected. The respondent further contended that, the suit summons were duly served upon the applicant society not only that after judgment was passed the respondent communicated the judgment to the applicant society on 14.05.2025. Thereafter, 12.06.2025 and 30.07.2025 with a request to settle his account, thus the judgment was within the knowledge of applicant society since 14.05.2025 but no effective steps have been taken by the applicant. The applicant was not diligent the enough to prosecute his claim and thus application deserves to be dismissed.*

7) *To support his contention the respondent has relied upon the judgment passed by the Hon'ble High Court in W.P. 7241/2023 in case of Vishwas Vishnu Dhanawade v/s. Kasturibai Hirachand Shah. Further the judgment passed by the Hon'ble High Court in W.P. No.5898/2022 dated 03.11.2025 in case of Roy Enterprises v/s. Govind Engineering.*

8) *Heard Ld. Advocate Mr. S. R. Andhale for the Applicant and Mr. K. B. Jadhav, Ld. Advocate for the Respondent.*

9) *Considering the pleadings of parties and after hearing Ld. Advocate for the respective parties, following points arise for my consideration.*

POINT

FINDINGS

- | | | |
|---|-----------------|-----------------------------------|
| 1) <i>Whether the applicant has proved sufficient cause of condonation of delay of 1 year and 10 days caused in filing the appeal ?</i> | <i>:</i> | <i>Yes.</i> |
| 2) <i>What order, what relief ?</i> | <i>:</i> | <i>As per final order.</i> |

REASONS

POINT NOS. 1 & 2 :-

10) *I have already narrated the pleading of applicant, hence no need to repeat. Admittedly, there is delay of 1 year and 10 days in presenting the appeal. After perusal of the grounds raised by the applicant in its application (mentioned herein above), I find the grounds raised by the applicant are cogent, bonafide and sufficient. It is a specific contention of applicant that suit summons was not duly served upon the applicant and though the respondent has produce letters of communication, after the judgment passed he did not produce on record any proof that, summons of dispute were duly served upon the applicant, when initial burden lies upon the respondent. Thus, I find substance in the contention of the applicant society.*

11) *After perusal of the alleged communication letters dated 14.05.2025, 12.06.2025 and 31.07.2025 it is evident that, these are the computer*

prints but again there is no proof that the respondent communicated the judgment to the applicant society and considering the contention of the applicant society the applicant came to know about the judgment on 31.07.2025. In such circumstances, the length of delay needs to be count from 31.07.2025, if it is so, after deducting the period of limitation appeal ought to have been filed in the month of October 2025 which was filed on 27.03.2026 and there is delay of 5 months.

12) *Be that as it may, after perusal of the grounds raised by the applicant in the appeal memo (which is attached along with the application), it is evident that, the applicant has raised various law points for which an opportunity of being heard needs to be given to the applicant.*

13) *After perusal of the impugned judgment prima facie it is evident that, the trial court has committed error in law while dealing the case of respondent / disputant and permanently restrained the society from recovering amount till settlement without mentioning a specific period. Thus, I find the applicant has case on merits, in such circumstances an opportunity needs to be granted to the applicant otherwise there will be a loss caused to the public in general.*

14) *Considering all this aspects, I am of the considered view that, the applicants have properly explained the delay and the delay needs to be condoned in the interest of justice. It is well settle law that, while dealing with the application for condonation of delay the court has to take the liberal approach and if bonafides are shown opportunity needs to be given to the party to contest the matter on merit. Keeping this settled law in mind, I am allowing the application filed by the applicant.*

15) To support my view, I am guided by the judgment passed by Hon'ble Apex court in case of Collector Land acquisition V/s. Mst. Katji & other reported in 1987 S.C.R. (2) 387 wherein it is observed that, "if the conditional order is passed, no prejudice would be caused to the respondent as it is always desirable to decide the matter on merit. If delay is refused to be condoned which may result in a meritorious matter being thrown out of court at the very threshold and cause of justice being defeated".

16) In this context, I have gone through the judgment upon which Advocate for the respondent relied upon in case of Vishwas Vishnu Dhanawade v/s. Kasturibai Hirachand Shah (cited supra) the facts were altogether different. The petitioner therein was the plaintiff and inspite of knowledge dismissal of his suit for want of prosecution he did not take steps for restoration of the dispute for near about 3 years and thus the Hon'ble High court held that, "the delay caused in filing the restoration application was not properly explained and upheld the judgment".

17) In the present case at hand facts are altogether different, here the applicant was the opponent and it is the contention of the applicant that, summons was not duly served upon it. Thus, the applicant was totally unaware, hence with all due respect to the observations of his Lordships in the above mentioned Writ Petition the ratio as led down in the above mentioned W.P. is not helpful to the respondent.

18) Similarly, in case of Roy Enterprises v/s. Govind Engineering facts are altogether different. In that case, the delay caused was of 636 days and the ground mentioned for delay was of miscommunication between the petitioner and its counsel and the Hon'ble High Court comes to the conclusion that, "the cause mentioned is not sufficient and there was gross negligence on the part of

applicant”.

19) Here in the present case at hand the facts are different thus ratio as led down is not helpful to the respondent.

20) Considering all the above observation, I record my findings to the above mentioned points accordingly and following order is passed.

ORDER

- 1) The Misc. Application No.16 / 2026 is allowed.
- 2) The concern clerk is directed to number the appeal and put on board on 17.07.2026.
- 3) As the respondent has appeared through Ld. Advocate Mr. K. B. Jadhav he is directed to waive the summons of appeal.
- 4) Appeal will be kept for hearing on 17.07.2026.
- 5) No order as to cost.

Place : Aurangabad.

Date :- 1st July, 2026

(Smt. S. R. Pawar)

Member

Maharashtra State Cooperative
Appellate Court Mumbai
Bench Aurangabad.

Dictated and pronounced in the open Court.

Order dictated on : 01.07.2026.

Order transcribed on : 01.07.2026.

Order ready on : 01.07.2026.