

IN THE CO-OPERATIVE COURT AT NASHIK, DIST.NASHIK

M.A.1/2018

Janata Sahkari Bank Ltd., Yeola

Add:Hundiwala Lane, Yeola, Tal.Yeola,

Dist.Nashik

.....Applicant

V/s.

1] Rustum Punjaba Kadam (Deceased)Non-Applicants

1-a] Smt.Radhabai Rustum Kadam, Age:56, Occ:Agri.

1-b] Shri.Walmik Rustum Kadam, Age:38,Occ:Agri.

1-c] Shri.Ganesh Rustum Kadam, Age:33,Occ:Agri.

Oppts.1-a to 1-c R/o.Gavhali, Tal.Kannad,

Dist.Aurangabad.

2] Shri.Sopan Gorakhnath Satpute, Age:53,Occ:Agri.

R/o.Nategaon, Tal.Vaijapur, Dist.Aurangabad

3] Shri.Prashant Narayan Nikam Age:40, Occ:Agri.

R/o.Gavhali, Tal.Kannad, Dist.Aurangabad

ORDER BELOW EXH.1

(Pronounced on 09/08/2018)

1] This is an application filed by applicant bank for condonation of delay caused to file dispute for recovery of amount against the legal heirs of deceased Rustum Punjaba Kadam on the grounds that the deceased Rustum Kadam had taken loan of Rs.40,000/- on 29/8/2009 from the applicant bank. Deceased Rustum Punjaba Kadam died on 10/6/2010 and the fact of death of deceased Rustum Punjaba Kadam is not intimated to the disputant by legal heirs of deceased or the sureties for the loan transaction. As on 12/12/2017 an amount of Rs.99,911/- is outstanding on the loan account of deceased opponent. The fact of death of deceased came

into the knowledge of Recovery Officer of applicant bank in the month of December-2017. Thereafter, names of legal heirs and death certificate of deceased are obtained and the dispute for recovery is filed. But the delay of one year seven months and 7 days is caused to file the dispute. The delay is not intentional one and hence, it requires to be condoned.

2] Show cause notice of this application is duly served to the legal heirs of deceased Rustum Punjaba Kadam i.e. non-applicants No.1-a to 1-c and sureties for the loan transaction of deceased i.e. non-applicants No.2 & 3 but they chose to remain absent. Hence, ex parte order is passed against them.

3] In support of the delay condonation application, applicant has filed on record affidavit in chief of its witness namely Shri.Anil Gajanan Vadnerkar at Exh.18. This witness has specifically stated that the deceased Rustum Punjaba Kadam had obtained loan of Rs.40,000/- on 29/8/2009 from the applicant bank and as on 12/12/2017 an amount of Rs.99,911/- is outstanding on the loan account of the deceased Rustum Punjaba Kadam. Non-applicants No.1-a to 1-c are the legal heirs of the deceased borrower. The borrower died on 10/6/2010 and fact of death of the borrower was not intimated to applicant bank either by legal heirs of deceased borrower or the sureties of the borrower. In the month of December-

2017, applicant bank came into the knowledge about the death of the borrower through its Recovery Officer and thereafter, by obtaining death certificate of deceased borrower, the dispute for recovery of outstanding is filed and for filing of this dispute delay is caused.

4] Considering the contents of dispute application filed along with this application, the principal borrower i.e. Rustum Punjaba Kadam died on 10/6/2010; as per Sec.92(1)(a) of the Maharashtra Societies Act, 1960 (M.C.S.Act), the limitation for dispute relates to the recovery of any sum from the member will start from the death of member and as per Sec.92(1)(2) of the M.C.S. Act, the limitation is 6 years for filing the dispute. This delay condonation application is filed on 17/1/2018 i.e. after expiry of the period of limitation. As per Sec.92(3) of the M.C.S. Act, the dispute can be admitted after expiry of the limitation period, if the applicant satisfied that he had sufficient cause for not referring the dispute within limitation. In the case in hand, the cause for not filing the dispute within limitation is due to lack of knowledge about the death of the principal borrower to the applicant. In my view, this is the sufficient cause as contemplated u/s.92(3) of the M.C.S.Act for not filing the dispute within limitation. Hence, the delay caused to file the dispute for recovery of loan amount against the legal heirs of

deceased borrower Rustum Punjaba Kadam is required to be condoned. Accordingly, I proceed to pass following order.

ORDER

- 1) Application is allowed.
- 2) Delay caused to file dispute against the legal heirs of deceased Rustum Punjaba Kadam i.e. non-applicants No.1-a to 1-c and sureties for the loan of deceased borrower is condoned.
- 3) Office is directed to register the dispute filed along with this delay condonation application.

Date: 09/08/2018
Nashik.

(A.S.Wanve)
Judge,
Co-operative Court, Nashik.

CERTIFICATE

I affirm that the contents of this PDF file of Judgment / Order
is same word to word, as per the original Judgment/Order.

Name of Stenographer	:	Mr.K.A.Kannor
Court Name	:	Mr.A.S.Wanve
	:	Judge, Co-operative Court, Nashik.

Date	:	09/08/2018
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Judgment/Order signed by The presiding officer on	:	09/08/2018
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Judgment/Order uploaded on	:	10/08/2018
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