

Regular Appeal No. 25/2023

Vikram Omprakash Damani Vs. HDFC Bank and 3 Ors.

Present: Mrs. Shivi Mishra, counsel for the appellant,
Shri S.K. Gupta, counsel for the respondent-Bank,

ORDER

Date of Pronouncement : 03.07.2026

The present recall application along with delay condonation application was heard and reserved for orders by this Tribunal vide order dated 23.04.2026.

With regard to delay, learned counsel for the applicant submitted that the applicant resides in Bombay and due to summer vacation, the counsel was not available during the month of June, 2023 and thereafter, the applicant contacted the counsel and discussed the order dated 11.05.2023, by which the applicant was directed to deposit minimum 25% of the debt determined by the Tribunal below, failing which the appeal shall stand dismissed as not entertainable. It was, therefore, prayed that the application for condonation of delay may be allowed and delay of 40 days approx may be condoned.

Learned counsel for the respondent-Bank submitted that the contention of the applicant that there is only of 40 days, is incorrect, as there is delay of more than three months including the period of limitation as prescribed under the Act. It was, further, contended that the said delay has not been explained by the applicant on day to day basis, which requires for condoning the same. It was, therefore, prayed that the application for condonation of

delay filed by the applicant may be rejected and consequently, the recall application also.

Considered the arguments as advanced by the learned counsels for both the parties and perused the material available on record.

The present application was filed on 14.08.2023 for recalling the order dated 11.05.2023, by which the applicant was directed to deposit minimum 25% of the debt determined by the Tribunal below under section 19 of the RDB Act for entertaining the appeal, failing which the appeal shall stand dismissed as not entertainable for want of mandatory pre-deposit without further reference to this court. As such the said application was filed with the delay of 66 days excluding the period of limitation as prescribed in the Act. The length of delay does not matter, if there is cogent/sufficient reason. For such delay, it has only been stated on behalf of the applicant that the applicant lives in Bombay and could not connect to the counsel immediately and thereafter, summer vacation started during the month of June, 2023 and his counsel was not available due to summer vacation and thereafter, when the applicant contacted the counsel and discussed the order dated 11.05.2023, then the present application was filed with bonafide delay, but the applicant has not disclosed, on which date his counsel became available and when the matter was discussed. Thus there is no specific date for any events. It is not the case of the applicant that he was not aware about the order impugned, as when the order impugned was passed one Shri Saurabh Srivastava

advocate was present on behalf of Mrs. Shivi Mishra, counsel for the applicant. The impugned order was passed on 11.05.2023 in presence of the counsel for the applicant and summer vacation started from 1st June, 2023, but the applicant has not explained about the period from 12.05.2023 to 31.05.2023 as to why the recall application was not filed during the said period, when the order impugned was well within the knowledge of the applicant. It is also to be noted that the summer vacation started from 01.06.2023 to 30.06.2023, but the appellant has not whispered even a single word about the period from 01.07.2023 to 14.08.2023 as to why during the said period, the application was not filed, thus the period from 01.05.2023 to 31.05.2023 and from 01.07.2023 to 13.08.2023 remained unexplained. As such the applicant has failed to explain the delay occurred in filing the present recall application. Thus the application for condonation of delay is liable to be rejected.

In view of the above, the application for condonation of delay is rejected and consequently, the recall application being I.A. No. 665/2023 also.

Considering the facts and circumstances of the case and in the interest of justice, I deem it fit to give one more opportunity to the applicant for complying with the order dated 11.05.2023, by which the applicant was directed to deposit minimum 25% of the debt determined by the Tribunal below under section 19 of the RDB Act, 1993. Accordingly, the applicant is directed to comply with the order dated 11.05.2023 prior to the next date, failing

which the appeal shall stand dismissed as entertainable for want of pre-deposit without further reference to this court. In case of compliance, list this case on 04.08.2026 for hearing on waiver.



Justice R.D. Khare
Chairperson

VN Giri,PS