

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST) NO.18596 OF 2018
WITH
CIVIL APPLICATION NO.3725 OF 2019
WITH
CIVIL APPLICATION NO.3058 OF 2018
WITH
CIVIL APPLICATION NO.3057 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant
Versus
Pankaj Mehta & Ors. ...Respondents

WITH
FIRST APPEAL (ST) NO.8362 OF 2018
WITH
CIVIL APPLICATION NO.3144 OF 2018
WITH
CIVIL APPLICATION NO.3175 OF 2018
WITH
CIVIL APPLICATION (ST) NO.13669 OF 2018
WITH
CIVIL APPLICATION NO.3143 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant
Versus
M/s. Casa Paradox Pvt. Ltd. & Ors. ...Respondents

WITH
FIRST APPEAL (ST) NO.8367 OF 2018
WITH
CIVIL APPLICATION NO.3162 OF 2018
WITH
CIVIL APPLICATION NO.3160 OF 2018
WITH
CIVIL APPLICATION NO.45 OF 2025

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant
Versus
Eicher Goodearth Ltd. & Ors. ...Respondents

WITH
FIRST APPEAL (ST) NO.8375 OF 2018
WITH
CIVIL APPLICATION NO.48 OF 2025
WITH
CIVIL APPLICATION NO.3171 OF 2018
WITH
CIVIL APPLICATION NO.47 OF 2025
WITH
CIVIL APPLICATION NO.3170 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant
Versus
M/s. Vinubhai Chandulal Pvt. Ltd. & Ors. ...Respondents

WITH
FIRST APPEAL (ST) NO.8381 OF 2018
WITH
CIVIL APPLICATION NO.3167 OF 2018
WITH
CIVIL APPLICATION NO.46 OF 2025
WITH
CIVIL APPLICATION NO.3166 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant
Versus
M/s. Tristar Interior Pvt. Ltd. & Ors. ...Respondents

WITH
FIRST APPEAL (ST) NO.8393 OF 2018
WITH
CIVIL APPLICATION NO.43 OF 2025
WITH
CIVIL APPLICATION NO.3151 OF 2018

WITH
CIVIL APPLICATION NO.3153 OF 2018
WITH
CIVIL APPLICATION NO.3152 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

M/s. Capelin Investment And
Trading Pvt. Ltd. & Ors. ...Respondents

WITH
FIRST APPEAL (ST) NO.8513 OF 2018
WITH
CIVIL APPLICATION NO.44 OF 2025
WITH
CIVIL APPLICATION NO.3128 OF 2018
WITH
CIVIL APPLICATION NO.3131 OF 2018
WITH
CIVIL APPLICATION NO.3129 OF 2018
WITH
CIVIL APPLICATION NO.3130 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

M/s. Rusco Pharma Pvt. Ltd. & Ors. ...Respondents

WITH
FIRST APPEAL (ST) NO.12853 OF 2018
WITH
CIVIL APPLICATION NO.3125 OF 2018
WITH
CIVIL APPLICATION NO.3127 OF 2018
WITH
CIVIL APPLICATION NO.3124 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

M/s. Aamore-Per-La-Casa & Ors. ...Respondents

WITH
FIRST APPEAL (ST) NO.17736 OF 2018
WITH
CIVIL APPLICATION NO.3157 OF 2018
WITH
CIVIL APPLICATION NO.3156 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

Zahir Zenuddin Marchant ...Respondent

WITH
FIRST APPEAL (ST) NO.17744 OF 2018
WITH
CIVIL APPLICATION NO.3138 OF 2018
WITH
CIVIL APPLICATION NO.3137 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

Biharilal Uddhavdas Wadhwa & Ors. ...Respondents

WITH
FIRST APPEAL (ST) NO.17749 OF 2018
WITH
CIVIL APPLICATION NO.3148 OF 2018
WITH
CIVIL APPLICATION NO.3147 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

Satish Shah & Ors. ...Respondents

WITH
FIRST APPEAL (ST) NO.17755 OF 2018
WITH
CIVIL APPLICATION NO.3154 OF 2018
WITH
CIVIL APPLICATION NO.3155 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

M/s. Deluxe Polymers Pvt. Ltd. & Anr. ...Respondents

WITH
FIRST APPEAL (ST) NO.17763 OF 2018
WITH
CIVIL APPLICATION NO.3041 OF 2018
WITH
CIVIL APPLICATION NO.3040 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

Manju Singhvi ...Respondent

WITH
FIRST APPEAL (ST) NO.17767 OF 2018
WITH
CIVIL APPLICATION NO.3141 OF 2018
WITH
CIVIL APPLICATION NO.3142 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

Babulal P. Bohra & Ors. ...Respondents

WITH
FIRST APPEAL (ST) NO.17998 OF 2018
WITH
CIVIL APPLICATION NO.3043 OF 2018
WITH
CIVIL APPLICATION NO.3044 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

Rohit Gupta & Ors. ...Respondents

WITH
FIRST APPEAL (ST) NO.18001 OF 2018
WITH
CIVIL APPLICATION NO.3055 OF 2018
WITH
CIVIL APPLICATION NO.3056 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

Shimera Project Lighting & Anr. ...Respondents

WITH
FIRST APPEAL (ST) NO.18006 OF 2018
WITH
CIVIL APPLICATION NO.3052 OF 2018
WITH
CIVIL APPLICATION NO.3051 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

M/s. Venus Wire Industries
Pvt. Ltd. & Anr. ...Respondents

WITH
FIRST APPEAL (ST) NO.18010 OF 2018
WITH
CIVIL APPLICATION NO.3046 OF 2018
WITH
CIVIL APPLICATION NO.3045 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

M/s. Leonard Holding and
Trading Pvt. Ltd. & Anr. ...Respondents

WITH
FIRST APPEAL (ST) NO.18087 OF 2018
WITH

**CIVIL APPLICATION NO.3039 OF 2018
WITH
CIVIL APPLICATION NO.3038 OF 2018**

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

M/s. Design Multiples & Anr. ...Respondents

**WITH
FIRST APPEAL (ST) NO.18095 OF 2018
WITH
CIVIL APPLICATION NO.3048 OF 2018
WITH
CIVIL APPLICATION NO.3047 OF 2018**

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

Bihar Supply Company & Ors. ...Respondents

**WITH
FIRST APPEAL (ST) NO.18101 OF 2018
WITH
CIVIL APPLICATION NO.3049 OF 2018
WITH
CIVIL APPLICATION NO.3050 OF 2018**

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

M/s. Shree Ganesh Knitting
and Manufacturing Mills & Ors. ...Respondents

**WITH
FIRST APPEAL (ST) NO.18594 OF 2018
WITH
CIVIL APPLICATION NO.3146 OF 2018
WITH
CIVIL APPLICATION NO.3145 OF 2018**

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

M/s. Delux Polymers Pvt. Ltd. & Ors. ...Respondents

WITH
FIRST APPEAL (ST) NO.19564 OF 2018
WITH
CIVIL APPLICATION NO.3165 OF 2018
WITH
CIVIL APPLICATION NO.3164 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

M/s. Comrade Lease Finvest
Pvt. Ltd. & Ors. ...Respondents

WITH
FIRST APPEAL (ST) NO.19600 OF 2018
WITH
CIVIL APPLICATION NO.3037 OF 2018
WITH
CIVIL APPLICATION NO.3036 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

Sanjay Mahendra Chopra & Ors. ...Respondents

WITH
FIRST APPEAL (ST) NO.20109 OF 2018
WITH
CIVIL APPLICATION NO.3139 OF 2018
WITH
CIVIL APPLICATION NO.3140 OF 2018

The Municipal Corporation
of Greater Mumbai ...Appellant/Applicant

Versus

M/s. Vitesse Limited & Ors. ...Respondents

WITH
FIRST APPEAL (ST) NO.24159 OF 2018
WITH
CIVIL APPLICATION NO.3177 OF 2018
WITH
CIVIL APPLICATION NO.3176 OF 2018

The Municipal Corporation
of Greater Mumbai

...Appellant/Applicant

Versus

M/s. Elegant Marbles and
Grani Industries Ltd. & Ors.

...Respondents

Mr. Narendra Walavalkar, Sr. Advocate a/w. Mr. Pradeep M. Patil, Ms. Pallavi Khale i/b. Ms. Komal Punjabi for Appellant/BMC.

Mr. Rajesh Rathod, Assistant Engineer Building and Factory G/South Ward present.

Mr. Archit Jayakar a/w. Ms. Pooja Yadav i/b. Jayakar & Partners for Respondent No.1 in CAF/3160/2018 in FAST/8367/2018 and CAF/3151/2018 in FAST/8393/2018.

Mr. Rahul Soman a/w. Mr. Suyash More i/b. Mr. Makarant Raut for Applicant in CA/77/2019 in for Respondent No.7 in FAST/19600/2018.

Mr. Shobhit Shukla a/w. Ms. Priti Thakur for Respondent in FAST/19564/2018, FAST/18594/2018, FAST/24159/2018, FAST/17755/2018.

Mr. Vipul Shukla i/b. Mr. Jayesh Vyas for Respondents in FAST/17736/2018, CAF/3156/2018 & CAF/3157/2018.

Mrs. Yasmin Bhansali a/w. Ms. Prabjyot Kaur Kler & Ms. Shazia Sameen i/b. Yasmin Bhansali & Co. for Respondent No.1 in FAST/18001/2018 & CAF/3055/2018.

Mr. Yash Sinha i/b. Mr. Tushar Goradia for Respondents in CAF/3040/2018 in FAST/1763/2018.

Mr. Rajesh S. Maravoor i/b. Maravoor Wamorkar & Co. for Respondents in FAST/18596/2018, FAST/8362/2018, FAST/17744/2018,

FAST/17749/2018, FAST/17998/2018, FAST/18006/2018,
FAST/18010/2018, FAST/18087/2018 & FAST/18095/2018.

Ms. Kinjal Kaddad a/w. Mr. Jayesh R. Vyas for Respondents in
FAST/17736/218 & CAF/3157/2018 & CAF/3156/2018.

CORAM : JITENDRA JAIN, J.

DATE : 2 APRIL 2026

JUDGMENT :

1. This is a group of around 26 Civil Applications filed by the Corporation for condoning the delay ranging from more than 1 year and close to 9 years approximately. By consent, Civil Application No. 3057 of 2018 filed in FA(ST) No. 18596 of 2018 is taken as lead matter, since reasons in all these civil applications for explaining delay as per all the counsel is more or less similar.

2. This application is filed by the Corporation to challenge the order passed on 12th October, 2009 by the City Civil Court, Mumbai whereby challenge to notice under section 351 of the Mumbai Municipal Corporation Act, 1888 for demolition of illegal structure/s was upheld, by quashing the notice dated 26th April, 2005.

3. As per Section 15 of the Bombay City Civil Court Act, 1948, appeal had to be filed within 30 days thereof. However, the appeal has been filed on 29th June, 2018. This has resulted into delay of 8 years 230 days in filing the appeal. Therefore, present civil application for condoning the delay.

4. I have heard learned senior counsel for the applicant-Corporation and learned counsel for the respondents.

5. In the civil application, reasons for the delay is mentioned in paragraph 5. Briefly, the reason is that in December, 2017 a mishap took place at Kamla Mills Compound in which innocent young lives were lost. This incident was a wake-up call for the Corporation and the applicant-Corporation immediately thereafter initiated enquiry into all the establishments where illegalities were committed and an action was taken by the Corporation. During this enquiry and investigation, the applicant-Corporation realized that, various orders were passed by the City Civil Court, Mumbai quashing the demolition notice which were in fact not challenged in appeal and much time had lapsed thereafter. In the application it is stated that the concerned officers of the Corporation attending the matters did not inform the progress of the matters nor did they inform about the judgment being passed against the applicant-Corporation. In my view, this itself is very shocking reason which shows more than what the eyes can meet.

6. At this stage, on a query raised by this court, the learned senior counsel for the Corporation has produced before me, documents showing action initiated against these officers in the year 2018. I hope that the action initiated in the year 2018, by now has culminated into passing of the appropriate orders after conducting departmental enquiries and if not then it is a very sorry state of affairs that till today after close to 8 years these actions are only show-off. In such a case, the Corporation is directed to close the proceedings within 4 months from today and a report of the action taken should be filed in this Court. The action should not be restricted against these officers but also against their superiors because it was the duty of the superiors to have supervised the progress which *prima facie* appears to have been not carried out, atleast nothing is stated in affidavit. Only some officers

cannot be made scapegoat and others go untouched.

7. I do not wish to reproduce paragraph 5 but I have summarized the contents of the said paragraph above. The Corporation has also filed an additional affidavit of Smt. Swapnaja Kshirsagar affirmed on 30th March, 2026, wherein what was stated in the original affidavit has been reiterated.

8. The issue before me is whether there is a “sufficient cause” to condone the delay. Admittedly, except alleging in-action on the part of the officers of the Corporation which came to light after the incident of Kamla Mill Compound, nothing else has been asserted. Whether a subsequent event would constitute “sufficient cause” has to be examined. In my view, subsequent event in another matter would not entitle a party to challenge an order after a period of 8 years and 230 days. The reason for not filing the appeal as per the affidavit is that the concerned officers did not inform the progress of the matter and judgment of the City Civil Court, Mumbai. This is an internal matter of the Corporation for which the sword of the litigation cannot be left hanging for an indefinite period over a party who had succeeded in the Court unless collusion is averred which in the affidavit is not. The Corporation has taken action against the concerned officers as observed by me above, but still that would not entitle the Corporation to contend that there was “sufficient cause”. Between the Corporation and the party before me, the *lis* has come to an end on the expiry of the limitation period by not challenging the impugned order.

9. Nothing has been shown to me except show cause notice issued in the year 2018 against these officers. If the Corporation was so serious then by now serious and stern action should have been initiated against

not only all the officers who did not report the progress but also their superiors. The action should be pre-emptive and not post such an untoward incident. We cannot stop by making a show of issuing show – cause notice to seek sympathy of the Court for condoning the delay but a stern action ought to have been taken which would have acted as deterrent but unfortunately we forget the incidents too soon and show action remains on table for long. This Court cannot be used as a tool for inaction and dereliction of duty by the officers of the Corporation. The fact of so many matters were not reported is a serious concern for introspection in the working of the World’s largest Corporation.

10. Therefore, I am of the view that, the reasons given in the application, namely the incident of Kamla Mill Compound and the officers not informing their superiors about the progress of the matter would not constitute “sufficient cause”. The Corporation should have an inbuilt system whereby the progress of the litigation pending before various courts should be monitored by the superiors either by calling the junior officers or by making certain notings in the system which will get reflected on the system of the superiors. Such a thing should not happen in future. It is the duty of the superiors to seek report about the progress of matters. In my view, if reasons are correct then superiors are equally responsible for dereliction in carrying out their duties.

11. The issue whether subsequent incident or event would entitle a litigant to challenge after so many years had come up for consideration before the Hon’ble Supreme Court in the case of *Delhi Development Authority Vs. Tejpal and Others*¹. The Hon’ble Supreme Court has discussed this issue at length from paragraphs 37 to 47. Though, the said decision is with respect to change in law, on account of subsequent,

¹ (2024) 7 SCC 433

Supreme Court decision relating to land acquisition, in my view, it applies with greater force in the present matter where the subsequent event is a manmade disaster, on account of inaction by the concerned local authorities. Therefore, in my view, such a long delay cannot be condoned, based on a subsequent incident, though, the Corporation has taken a show off remedial action.

12. However, at the same time, if there are illegalities committed by violating the law, then merely because for the reasons stated above, the Corporation did not file the appeal in time, should not give an incentive to the persons committing such illegalities and allow them to go unnoticed and unpunished due to inaction of officers for reasons best known to all. It is also important to note that the notice which was challenged before the City Civil Court, Mumbai was of the year 2005 and now we are in the year 2026. Much water must have flown in last two decades, which may result into hearing this appeal as an academic exercise after delay of filing of more than 8 years. This is so because the illegalities alleged by the Corporation may have either been removed on account of lapse of time or may have changed on account of various other factors. Therefore, a fresh beginning can always be made in the larger interest of the safety of the society and for ensuring that laws of this country does not remain on paper but are complied with by one and all.

13. Therefore, to balance the equity and to ensure that illegality is not gone unpunished, liberty is given to the Corporation to carry out fresh inspection and initiate fresh action, in accordance with law and if permissible, to ascertain whether any illegalities are committed on such inspection as of today. Such fresh cause of action would be, of course, in accordance with law and the impugned order dated 12th October, 2009

would not come in the way of the Corporation since the same is based on illegalities noticed in the year 2005. If such an action is initiated, then the noticee would be entitled to raise all defences available to them in law. All contentions of all the parties are kept open since I have not opined on merits, in this present order. This course of action is acceptable to the Corporation as very fairly stated by learned senior counsel but is not acceptable to the respondents for the reasons best known to them when they don't have to fear if they have not committed any illegalities and the doors of the Court are always open if they find action of the Corporation is not in accordance with law. Therefore, the present order is not passed on concession, but in accordance with the conscious of this Court and in accordance with the oath which this Court has taken to protect the Constitution and law of the land. This Court will be failing in its duty and oath if the illegalities and inaction of officers goes unchecked and unpunished.

14. In view of above, the delay in filing the appeal is not condoned. Civil Application No. 3057 of 2018 is dismissed. Consequently, appeals stands dismissed and civil applications, if any, does not survive.

15. Before parting, the Corporation to file a report of action taken pursuant to show cause notices of the year 2018 with this Court on or before 12th August, 2026, on which day the Corporation will apprise the progress made on the proceedings pursuant to the said show cause notices, if the same has not culminated in the order. The progress report should indicate the action taken against not only the noticee's but also against their superiors for dereliction of their duty and also explanation for not concluding the show cause notice till today, if not concluded.

16. The show cause notice shown by the learned counsel is returned

back in the Court. The Court expects that the Corporation will take strict action against all the persons found guilty which is alleged in the show cause notice. If on enquiries and investigation it is found that private persons have colluded with officers and are also involved then, the Corporation should take appropriate action including criminal action against the private persons, and the police authorities are directed to take immediate action against them, by lodging FIR at the behest of the Corporation. It is the duty of all the machineries of the State to co-ordinate and work together at a lightning speed to bring all the guilty persons to be booked in accordance with law.

17. Insofar as, all the other civil applications are concerned, the reasons given by me while disposing the Civil Application No. 3057 of 2018 would be equally applicable to all these civil applications and, therefore, adopting the same reasoning and by giving the same liberty, all the civil applications for condoning the delay are dismissed. Consequently, all the appeals and civil applications are also dismissed.

18. It is made clear that the above/direction is only against the issue of officers not reporting the progress and informing about the adverse orders against the Corporation. I am not in this matter directly concerned with the untoward incident at Kamla Mill Compound for which the State must have taken appropriate action.

19. Citizens of Commercial Capital of the Country have high expectations from the newly appointed Administrator of the Corporation, who has created history and I hope the Administrator would live upto the expectations and not let citizens down but would make us all proud.

20. Registry to send a copy of this order to the Commissioner of the Corporation and to the Chief Legal Officer of the Corporation.
21. All Civil Applications and Appeals are disposed of.
22. List these matter on 13th August, 2026 for reporting “compliance”.

[JITENDRA JAIN, J.]

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by SAYYED
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