

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 774 OF 2015

Tukaram Sopanrao Mulik	..	Petitioner
vs.		
Slum Rehabilitation Authority		
Pune and Pimpri Chinchwad Area		
Pune & Ors.	..	Respondents

Mr. Anand Singh for Petitioner.
Mr. S. D. Rayrikar – AGP for Respondent No. 12.

CORAM : M. S. SONAK, J.
DATE: 22 JANUARY 2015

P.C. :-

1] This petition is directed against the order dated 8 December 2014, by which the Maharashtra Slum Tribunal has condoned the delay in filing appeal before it by the respondent nos. 3 to 11 ("said respondents"). The learned counsel for the petitioner points out that in the present case, the order impugned in the appeal is dated 24 May 2006. The said respondents participated in the proceedings which culminated in the order dated 24 May 2006. Besides there was a panchnama at the site as also paper publications from time to time, from which it is inconceivable that the said respondents had no knowledge about the passing of the order dated 24 May 2006. The Slum Tribunal, without taking into consideration all these aspects has condoned the delay by the impugned order.

2] Having heard the learned counsel for the petitioner and perused the record, as well as the impugned order, it is seen that the Slum Tribunal has taken cognizance of the circumstance that the civil suit had been instituted by the said respondents, in which certain issues pertaining to the development upon the property now declared as a slum areas were being contested. It is in these proceedings that the petitioner placed on record copy of the order dated 24 May 2006, which has now been impugned before the Slum Tribunal. The application for condonation of delay clearly sets such a circumstance and further points out that the appeal has been preferred within a period of four weeks from the date of placement of such order before the civil court. Looking to these circumstances, it cannot be said that the approach adopted by the Slum Tribunal is either unreasonable or perverse. Further, the fact that the said respondents were pursuing litigations before the civil court, also establishes that they were neither indolent nor can they be said to have slept over their rights. In such circumstances, no interference is warranted with the impugned order.

3] In the case of ***N. Balakrishnan vs. M. Krishnamurthy***¹, the Apex Court has observed that condonation of delay is a matter of discretion of the court. Such discretion is not in all circumstances circumscribed by the quantum of delay. Length of delay is no

1 (1998) 7 SCC 123

matter. Acceptability of explanation is the only criteria. In every case of delay, there may be some lapses on the part of the litigant concerned. However, that by itself is not sufficient to shut the door against him. Once the court accepts the explanation as sufficient, it is a result of positive exercise of discretion and normally a superior court should not disturb such finding, much less in its revisional jurisdiction. But it is a different matter, that the first court refuses to condone the delay. In such case the superior case would be free to consider the cause shown for the delay afresh and it is open to the superior court to come to its own finding even untrammelled by the conclusion of the lower court.

4] In view of the aforesaid, there is no case made out to interfere with the impugned order. However, the learned counsel for the petitioner complains that any delay before the Slum Tribunal, may prejudice the petitioner's rights. Accordingly, the Slum Tribunal is directed to dispose of the appeal of the said respondents as expeditiously as possible and in any case within three months from today. The Slum Tribunal shall decide the same in accordance with law and on its own merits.

5] Petition is disposed of accordingly.