

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.2170 OF 2010

Prakash Deolkar & ors .Petitioners

v/s.

The State of Maharashtra & ors .Respondents

Mr.S.S.Redekar, Advocate, for the Petitioners
Mr.D.A.Nalawade, GP, for the Respondent No.1 –
State

CORAM : A.A.SAYED, J.

DATE : 24.06.2015

P.C.

. The challenge in this petition is to an order dated 13.08.2008 passed by the Slum Tribunal, whereby the Appeal of the respondent No.4 was allowed and the impugned slum area declaration vide notification bearing No.SAA/Malad/16 dated 15.10.1977, published in Maharashtra Government Gazette dated 27.10.1977 was set aside in respect to the subject property admeasuring 302.5 Sq.Meters. By way of

amendment, the petitioners have also challenged the order dated 12.04.2007 passed by the Slum Tribunal condoning the delay in filing the Appeal.

2. Pursuant to the order dated 25.03.2015 the record & proceedings in Appeal No.13 of 2007 filed before the Slum Tribunal was produced by the learned Government Pleader before this Court.

3. The grievance of the petitioners is that despite the petitioners being shown in the array of parties before the Slum Tribunal as the respondent Nos.1, 3 & 4 respectively, they were not served with the Appeal papers. It is further contended by the learned counsel for the petitioners that despite the notification being of the year 1977, the delay of about 29 years was condoned by the Slum Tribunal merely by

stating "Delay condoned subject to costs of Rs.250/-", without making any reference to the reply filed by the Deputy Collector and without recording or assigning any reasons.

4. Inasmuch as no reasons have been given by the Slum Tribunal in condoning the inordinate delay of 29 years and considering the fact that the reply of the Deputy Collector also has not been considered while condoning the delay, the impugned order in my view cannot be sustained. Having concluded that the impugned order condoning the delay cannot be sustained, the impugned order dated 13.08.2008 deciding the Appeal finally would also have to go.

5. Considering the facts & circumstances, in my view, the following order would meet the ends of justice :

(i) The impugned orders of the Slum Tribunal are set aside. The Appeal as well as the Misc.Appln.No.43 of 2006 seeking condonation of delay shall stand revived;

(ii) The Slum Tribunal at the first instance shall decide the delay condonation application;

(iii) The petitioner is permitted to appear before the Slum Tribunal along with a copy of this order on 20.07.2015 at 11.00 a.m. when appropriate directions may be issued by the Slum Tribunal;

(iv) The Slum Tribunal shall decide the matter expeditiously;

(v) The record and proceedings shall be transmitted forthwith to the Slum Tribunal;

(vi) The statement of the learned counsel for the petitioner is recorded that a copy of this order will be served upon the Advocate for respondent No.4 within two weeks from today.

6. The Petition is disposed of in the
aforesaid terms.

(A.A.SAYED, J.)