

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

WRIT PETITION NO.166 OF 2011

**Nusserwanji Wadi Tenants Welfare
Association CHS (Prop) & Anr.**

..... Petitioners

V/s

The State of Maharashtra & Ors.

..... Respondents

Mr. Ajay Basutkar for Petitioner.

Mr. Milind More, AGP for Respondent No.1.

Mr. Ajit N. Jakhade for Respondent No.4.

Mr.A.Y. Sakhare, Senior Advocate a/w Ms. K.H. Mastakar for
Respondent - BMC.

CORAM : A.A. SAYED, J.
DATED : 26 MARCH 2015

P.C.

1 On 15 March 2015 the following order came to be passed:

“1. The learned Counsel for the Petitioners states that despite there being a delay of 3963 days in filing the Appeal and a condonation Application being Misc. Application No.22 of 2010 being filed, there is no order passed on the said Misc. Application seeking condoning the delay.

2. In these circumstances, it would be appropriate that the learned A.G.P. produce the record and proceedings of Appeal No.13 of 2010 including Misc. Application No.22 of 2010 which was filed before the Maharashtra Slum Area (I.C.&R) Tribunal, Mumbai, on the next date.

2. Stand over to 12 March 2015.”

2 Pursuant to the aforesaid order, the record and proceedings in Appeal No.13 of 2010 which was filed before the Slum Tribunal was produced in Court and the learned Counsel for the parties have taken inspection thereof. It is now an admitted position before Court that though there was Miscellaneous Application No.22 of 2010 was filed, there is no order on the said Application condoning the delay. It is well settled that unless the Application for condonation was decided, the Court/ Tribunal cannot proceed to hear the merits of the matter. Thus, in the present case, unless the Miscellaneous Application is decided, the Slum Tribunal ought not to have heard and passed the impugned order in the Appeal.

3 In these circumstances, the impugned order passed by the Slum Tribunal dated 26 October 2010 is set aside. The Slum Tribunal shall hear and decide the Miscellaneous Application No.22 of 2010 in the first instance within six weeks from today. In the event the delay is condoned, the Appeal shall be heard and disposed of as expeditiously as possible and in any event within six months from today.

4 All contentions are kept open.

5 The Petition is disposed of in the aforesaid terms.

(A.A. SAYED, J.)