

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 214 OF 2024

WITH

WRIT PETITION NO. 215 OF 2024

WITH

WRIT PETITION NO. 216 OF 2024

Nayeem Riyaz Hafızka S/O

Abudakar Riyaz Hafızka

... Petitioner

Versus

Chairman of Board of Management of

The Bombay Properties of

Indian Institute of Science And Ors.

... Respondents

Mr. Sayed Ejaz Abbas Naqvi for Petitioner.

Mr. Shrey Fatterpekar a/w Anuja Jhunjhunwala and Mr. Avi Kshirsagar i/b
M. Mulla Associates for Respondent Nos. 1 to 3.

CORAM : SANDEEP V. MARNE, J.

DATE : 29 JULY 2024.

P.C. :

1) Writ Petition Nos. 214 of 2024 and 215 of 2024 are filed challenging Orders dated 27 August 2019 passed by Appellant Bench of the Small Causes Court dismissing Appeal Nos. 82 of 2015 and 83 of 2015 for want of prosecution. Writ Petition No. 216 of 2024 is filed challenging the

Decree of the Appellate Bench dated 19 October 2019 passed in Appeal No. 391 of 2014 filed by landlords declaring that Plaintiff No.1 is the monthly tenant in respect of the suit premises.

2) The Petitions are filed after delay of more than four years. All the three Petitions contain identical pleadings so far as the issue of delay and laches are concerned. In this connection the pleadings in para 22 each of the Petitions read thus:

"22. The impugned order was passed by the M.S. Kulkarni Addl. Chief Judge and N. H. Jadhav, Div. Bench of Small Causes Court, Court No. 3 vide dated 27.08.2019 on order dated 19.10.2019 in Appeal No. 391 of 2014, and the Petitioner had applied the Certified Copy on 12/12/2023 and received on 12/2023 and hence if there is any delay in filing the present Petition and the Petition, the same delay may be condoned. As the delay regarding challenging the order dated 27.08.2019, he was out of money and no advocate was available to represent him before the Small Causes Court and before the Hon'ble Bombay High Court. Therefore the delay of any, if any, may be condoned in the interest of justice."

3) Thus, no explanation is given for delay of more than four years in filing the present Petitions. The contention that the Petitioner was out of money cannot be accepted in the light of Petitioner's own contention that he is an overseas resident and has been residing in Paris and USA and has secured USA citizenship. I am therefore not convinced by the explanation for delay in filing the present Petition. Petitioner has been negligent in prosecuting Appeal Nos. 82 of 2015 and 83 of 2015. After the Appeals were dismissed for want of prosecution, the Appellant has waited for more than four years for challenging the Order in respect of the decree passed by the Appellate Bench on 19 August 2019 declaring Plaintiff No.1 in R.A.D. Suit No. 859 of 2005 to be the only tenant in respect of suit premises. Again there

is delay of more than 4 years in filing the Petition. As a matter of fact, Civil Revision Application ought to have been filed challenging the decree of the Appellate Bench dated 19 October 2019 in Appeal No. 391 of 2014.

4) I am therefore not inclined to entertain the Petitions on the ground of delay and laches. Writ Petitions are accordingly dismissed.

[SANDEEP V. MARNE, J.]