

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 9018 OF 2024

IN

FIRST APPEAL (ST) NO. 15584 OF 2023

The Municipal Corporation of Greater Bombay &
Anr

...Applicants

Versus

The Indian Hotels Co. Ltd.

...Respondent

Ms. Pallavi Khale for Applicants.

Mr. Karl Tamboly aw *Rajesh Satpalkar, Devanshi Gadda, i/b
Mulla & Mulla & CBC* for Respondent.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : SEPTEMBER 13, 2024

PC :

1. Heard Learned Counsel for the Respondent to appreciate the affidavit in reply filed today. The same is taken on record.

2. *Prima facie* it appears that delay of seven years and 101 days, is sought to be justified in the Delay Condonation Application by the following explanation:-

“6. The Applicants state that on receipt of the ordinary copy of the impugned order, the same was forwarded by the legal department to

the Concerned ward for getting the administrative approval to prefer an appeal after duly considering the impugned order. The Applicants state that Assessment Department is headed by Assessor and Collector. Each ward has separate Assessment section and as such the matters are discussed at the various levels and finally submitted to Appeal Committee and the said Appeal Committee by its order dated 21.12.2019 decided not to file an Appeal at that time but after by order dated 26.02.2021 decided to file an appeal.

7. This is time consuming process. The Applicants submit that the Applicants have constituted the Appeal Committee for considering the orders passed against the Applicants, the said Committee consists of the Assessor and Collector, Dy. Assessor and Collector and the Assistant Assessor and Collector of the concerned Ward/Investigating Officer and the representative of the Legal Department. The meeting of the said Committee could not take place as staff was busy in Implementing the capital value system.

8. Further the said department also handles the election Department of the Applicants. Hence, were also busy in Loksabha Election of 2019. As such the impugned order could not be placed before the committee for its consideration immediately. Applicants state that in March 2020, the whole country was put under lockdown due to the Covid-19 virus and therefore the appeal could not be filed immediately since the concerned officers were on covid duty."

3. In the affidavit in reply, the Respondent has annexed various minutes of the Appeal Committee meetings which would point to the fact that the Applicant's Appeal Committee had met on June 3, 2016 to consider the implications of the impugned judgment and had arrived at an informed view not to appeal. It appears that thereafter, on December 21, 2019, another meeting was held by the Appeal Committee. Such

meeting did not consider the case of the Respondent at all. This is the date of the meeting which is referred to in the Application seeking Condonation of Delay, as being the date of the first decision not to appeal. In other words, the decision not to file an appeal had been taken way back in 2016 and not in 2019. Thereafter, it appears that on March 17, 2021, nearly five years later, there has been a new view on the matter and the Appeal has been filed pursuant to that decision.

4. Against this backdrop, Learned Counsel for the Applicant will be heard on the next occasion i.e., September 25, 2024, so that she can deal with the contents of the affidavit in reply and address the Court on whether the Delay Condonation Application would still be pressed.

5. Learned Counsel for the Respondent has also sought to rely on the judgment of the Supreme Court in State of Madhya Pradesh & Ors. vs. Bherula¹, which, in turn, copiously quotes from the decision in Postmaster General vs. Living Media (India) Ltd.².

6. Stand over to **September 25, 2024, high on board**. Learned Counsel for the parties submit that there are three other Appeals (First

¹ (2020) 10 SCC 654

² (2012) 3 SCC 563

Appeal (L) No.6657 of 2023, First Appeal (L) No.17081 of 2023 and First Appeal (L) No.16462 of 2023) involving the same issue although for different years, all of which have travelled through the same legal process. Let those Appeals also be listed for consideration on **September 25, 2024**.

7. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]