



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 948 OF 2025
IN
FIRST APPEAL (ST) NO. 35116 OF 2024

Mr. Anil Bhingardive	]	
Age-53 Years Occp- Air India Service	]	
Flat No. 27 Building No.16	]	
Old Air India Colony, Kalina,	]	
Santacruz (East),	]	
Eviction Case No. ----	]	
Mob No.9769490906	]	
Email- abhingardive20@gmail.com	]	
Mumbai - 29.	]	...Appellant.

Versus

1) Airport Authority of India,	]	
Through – Mr. Radhakrishna	]	
Eviction Officer Western Regional Office	]	
New Airport Colony Andheri	]	
Sahar Road Mumbai – 99.	]	
2) Mumbai International Airport Pvt. Ltd.	]	
Through – Mr. Jeetendra Prakash Sali	]	
Representative MIAL	]	
/Adani Group Terminal 1B	]	
1 st Floor, CSMIA Mumbai 99.	]	...Respondents.

WITH
INTERIM APPLICATION NO. 943 OF 2025
IN
FIRST APPEAL (ST) NO. 35571 OF 2024

Mr. Deepak Nikam	]	
Age-53 Years Occp- Air India Service	]	
Flat No. 16 Building No. 1	]	
Old Air India Colony, Kalina,	]	
Eviction Case No.-----	]	
Mob No. 9969106741	]	
Email- dk.nikam9969@gmail.com	]	
Mumbai - 29.	]	...Appellant.

Versus

1) Airport Authority of India,	]	
Through – Mr. Radhakrishna	]	

- | | | |
|---|---|------------------------|
| Eviction Officer Western Regional Office |] | |
| New Airport Colony Andheri |] | |
| Sahar Road Mumbai – 99. |] | |
| 2) Mumbai International Airport Pvt. Ltd. |] | |
| Through – Mr. Jeetendra Prakash Sali |] | |
| Representative MIAL |] | |
| /Adani Group Terminal 1B |] | |
| 1 st Floor, CSMIA Mumbai 99. |] | ...Respondents. |

WITH
INTERIM APPLICATION NO. 962 OF 2025
IN
FIRST APPEAL (ST) NO. 35883 OF 2024

- | | | |
|---|---|----------------------|
| Mr. Santosh Walje |] | |
| Age-55 Years Resi at Flat No. 21/A Building No.15 |] | |
| 1 st floor Occp- Service in Air India Ltd. |] | |
| Eviction Case No. 1 of 2023 |] | |
| Resident- building No. Old Air India Colony, |] | |
| Kalina,. Mob No. 8698870464 |] | |
| Email- sdwalje@gmail.com |] | |
| Mumbai – 29. |] | ...Appellant. |

Versus

- | | | |
|---|---|------------------------|
| 1) Airport Authority of India, |] | |
| Through – Mr. Radhakrishna |] | |
| Eviction Officer Western Regional Office |] | |
| New Airport Colony Andheri |] | |
| Sahar Road Mumbai – 99. |] | |
| 2) Mumbai International Airport Pvt. Ltd. |] | |
| Through – Mr. Jeetendra Prakash Sali |] | |
| Representative MIAL |] | |
| /Adani Group Terminal 1B |] | |
| 1 st Floor, CSMIA Mumbai 99. |] | ...Respondents. |

WITH
INTERIM APPLICATION NO. 959 OF 2025
IN
FIRST APPEAL (ST) NO. 35876 OF 2024

- | | |
|--------------------------------------|---|
| Mr. Mukesh S. Bhamre |] |
| Age-53 Years Occp- Air India Service |] |
| Flat No. 21 Building No.19 |] |
| Old Air India Colony, Kalina, |] |
| Santacruz (East), |] |
| Eviction Case No. 13 of 2023 |] |

Mob No. 7021944715]
 Email- mukeshbhamre9@gmail.com]
 Mumbai - 29.] **...Appellant.**

Versus

- 1) Airport Authority of India,]
 Through – Mr. Radhakrishna]
 Eviction Officer Western Regional Office]
 New Airport Colony Andheri]
 Sahar Road Mumbai – 99.]
- 2) Mumbai International Airport Pvt. Ltd.]
 Through – Mr. Jeetendra Prakash Sali]
 Representative MIAL]
 /Adani Group Terminal 1B]
 1st Floor, CSMIA Mumbai 99.] **...Respondents.**

WITH
INTERIM APPLICATION NO. 975 OF 2025
IN
FIRST APPEAL (ST) NO. 35856 OF 2024

Mr. Sanjay Kamble]
 Age-53 Years Occp- Air India Service]
 Flat No. 23 Building No.18]
 Old Air India Colony, Kalina,]
 Santacruz (East),]
 Eviction Case No. 30 of 2023]
 Mob No. 9969700945]
 Mumbai - 29.] **...Appellant.**

Versus

- 1) Airport Authority of India,]
 Through – Mr. Radhakrishna]
 Eviction Officer Western Regional Office]
 New Airport Colony Andheri]
 Sahar Road Mumbai – 99.]
- 2) Mumbai International Airport Pvt. Ltd.]
 Through – Mr. Jeetendra Prakash Sali]
 Representative MIAL]
 /Adani Group Terminal 1B]
 1st Floor, CSMIA Mumbai 99.] **...Respondents.**

WITH
INTERIM APPLICATION NO. 979 OF 2025
IN
FIRST APPEAL (ST) NO. 35885 OF 2024

Mr. Subhash Bala Pawar]
 Age-54 Years Occp- Air India Service]
 Flat No. 7 Building No.12]
 Old Air India Colony, Kalina,]
 Santacruz (East)]
 Eviction Case No. 37 of 2023]
 Mob No. 9220055251]
 Email- pawarsubhash8018@@gmail.com]
 Mumbai - 29.] **...Appellant.**

Versus

- 1) Airport Authority of India,]
 Through – Mr. Radhakrishna]
 Eviction Officer Western Regional Office]
 New Airport Colony Andheri]
 Sahar Road Mumbai – 99.]
- 2) Mumbai International Airport Pvt. Ltd.]
 Through – Mr. Jeetendra Prakash Sali]
 Representative MIAL]
 /Adani Group Terminal 1B]
 1st Floor, CSMIA Mumbai 99.] **...Respondents.**

WITH
INTERIM APPLICATION NO. 946 OF 2025
IN
FIRST APPEAL (ST) NO. 35879 OF 2024

Mr. Sanjay R. Jagtap]
 Age-54 Years Occp- Air India Service]
 Flat No.8 Building No.15]
 Old Air India Colony, Kalina,]
 Santacruz (East),]
 Eviction Case No.-----]
 Mob No.9082274396]
 Email- sanjayjagtap2569@gmail.com]
 Mumbai ---] **...Appellant.**

Versus

- 1) Airport Authority of India,]
 Through – Mr. Radhakrishna]
 Eviction Officer Western Regional Office]
 New Airport Colony Andheri]
 Sahar Road Mumbai – 99.]
- 2) Mumbai International Airport Pvt. Ltd.]
 Through – Mr. Jeetendra Prakash Sali]

Representative MIAL]
 /Adani Group Terminal 1B]
 1st Floor, CSMIA Mumbai 99.] **...Respondents.**

WITH
INTERIM APPLICATION NO. 965 OF 2025
IN
FIRST APPEAL (ST) NO. 1646 OF 2025

Mr. Mahesh Arondekar]
 Age-51 Years Occp- Service in Air India Ltd]
 Flat No. 7/A ground floor, Building No.13,]
 Air India's 1st Housing Colony, Old Air India]
 Colony, Kalina,]
 Mob No. 8652313332]
 Email- mahesh.aronekar@gmail.com]
 Mumbai - 29.] **...Appellant.**

Versus

- 1) Airport Authority of India,]
 Through – Mr. Radhakrishna]
 Eviction Officer Western Regional Office]
 New Airport Colony Andheri]
 Sahar Road Mumbai – 99.]
- 2) Mumbai International Airport Pvt. Ltd.]
 Through – Mr. Jeetendra Prakash Sali]
 Representative MIAL]
 /Adani Group Terminal 1B]
 1st Floor, CSMIA Mumbai 99.] **...Respondents.**

WITH
INTERIM APPLICATION NO. 960 OF 2025
IN
FIRST APPEAL (ST) NO. 35636 OF 2024

Mr. Mahesh K. Lohima]
 Age-52 Years Occp- Air India Service]
 Flat No. 4, Building No.32]
 Indian Airlines Colony, Kalina,]
 Eviction Case No. 205 of 2023]
 Mob No. 9869975255]
 Email- mahesh_lohima@yahoo.co.in]
 Mumbai - 29.] **...Appellant.**

Versus

- 1) Airport Authority of India,]

- Through – Mr. Radhakrishna
Eviction Officer Western Regional Office
New Airport Colony Andheri
Sahar Road Mumbai – 99.]
- 2) Mumbai International Airport Pvt. Ltd.]
Through – Mr. Jeetendra Prakash Sali]
Representative MIAL/Adani Group]
Terminal 1B 1st Floor, CSM]
1A Mumbai 99.] **...Respondents.**

WITH
INTERIM APPLICATION NO. 964 OF 2025
IN
FIRST APPEAL (ST) NO. 35654 OF 2024

- Mr. Prafulla Bansode]
Age-56 Years Occp- Air India Service]
Flat No. 4/B Building No.33]
Indian Air Lines Colony No. 1, Kalina,]
Eviction Case No. 203 of 2023]
Mob No. 7977848391]
Mumbai - 29.] **...Appellant.**

Versus

- 1) Airport Authority of India,]
Through – Mr. Radhakrishna]
Eviction Officer Western Regional Office]
New Airport Colony Andheri]
Sahar Road Mumbai – 99.]
- 2) Mumbai International Airport Pvt. Ltd.]
Through – Mr. Jeetendra Prakash Sali]
Representative MIAL]
/Adani Group Terminal 1B]
1st Floor, CSMIA Mumbai 99.] **...Respondents.**

WITH
INTERIM APPLICATION NO. 968 OF 2025
IN
FIRST APPEAL (ST) NO. 35638 OF 2024

- K. K. Shende]
Age-54 Years Occp- Air India Service]
Flat No. 14/A Building No. 3.]
Indian Air Lines Housing Colony, Kalina,]
Eviction Case No. 189 of 2023]
Mob No.9869303807]

Mumbai - 29.] ...Appellant.

Versus

- | | |
|---|-------------------|
| 1) Airport Authority of India, |] |
| Through – Mr. Radhakrishna |] |
| Eviction Officer Western Regional Office |] |
| New Airport Colony Andheri |] |
| Sahar Road Mumbai – 99. |] |
| 2) Mumbai International Airport Pvt. Ltd. |] |
| Through – Mr. Jeetendra Prakash Sali |] |
| Representative MIAL |] |
| /Adani Group Terminal 1B |] |
| 1 st Floor, CSMIA Mumbai 99. |] ...Respondents. |

WITH
INTERIM APPLICATION NO. 942 OF 2025
IN
FIRST APPEAL (ST) NO. 35799 OF 2024

Mr. Santosh Suresh Tambe	]
Age-56 Years Occp- Air India Service	]
Flat No. 6/A, Building No.39	]
Old Air India Colony, Kalina,	]
Eviction Case No. 118 of 2023	]
Mumbai - 29.	] ...Appellant.

Versus

- | | |
|---|-------------------|
| 1) Airport Authority of India, |] |
| Through – Mr. Radhakrishna |] |
| Eviction Officer Western Regional Office |] |
| New Airport Colony Andheri |] |
| Sahar Road Mumbai – 99. |] |
| 2) Mumbai International Airport Pvt. Ltd. |] |
| Through – Mr. Jeetendra Prakash Sali |] |
| Representative MIAL |] |
| /Adani Group Terminal 1B |] |
| 1 st Floor, CSMIA Mumbai 99. |] ...Respondents. |

WITH
INTERIM APPLICATION NO. 958 OF 2025
IN
FIRST APPEAL (ST) NO. 36132 OF 2024

Mr. Bharat Anna Bobade	]
Age-56 Years Occp- Air India Service	]
Flat No. 185/A, building No.C	]

Indian Airlines Colomy, Kalina,]
 Eviction Case No. 97 of 2023]
 Mob No. 9969146858]
 Email- bharatbobade199@gmail.com] **...Appellant.**
 Mumbai - 29.]

Versus

- 1) Airport Authority of India,]
 Through – Mr. Radhakrishna]
 Eviction Officer Western Regional Office]
 New Airport Colony Andheri]
 Sahar Road Mumbai – 99.]
- 2) Mumbai International Airport Pvt. Ltd.]
 Through – Mr. Jeetendra Prakash Sali]
 Representative MIAL/Adani Group Terminal]
 1B 1st Floor, CSMIA]
 Mumbai 99.] **...Respondents.**

WITH
INTERIM APPLICATION NO. 972 OF 2025
IN
FIRST APPEAL (ST) NO. 36130 OF 2024

Mr. Sanjay Parshuram Vhatkar]
 Age-53 Years Occp- Air India Service]
 Flat No. 7A, Building No.39]
 Indian Airlines Colomy, Kalina,]
 Eviction Case No. 290 of 2023]
 Mob No. 9004311390]
 Email- sanjayvhat@gmail.com] **...Appellant.**
 Mumbai - 29.]

Versus

- 1) Airport Authority of India,]
 Through – Mr. Radhakrishna]
 Eviction Officer Western Regional Office]
 New Airport Colony Andheri]
 Sahar Road Mumbai – 99.]
- 2) Mumbai International Airport Pvt. Ltd.]
 Through – Mr. Jeetendra Prakash Sali]
 Representative MIAL]
 /Adani Group Terminal 1B]
 1st Floor, CSMIA Mumbai 99.] **...Respondents.**

WITH
INTERIM APPLICATION NO. 956 OF 2025

IN
FIRST APPEAL (ST) NO. 36141 OF 2024

Mr. Trimbak Kushaba Thul	]	
Age-59 Years Occp- Air India Service	]	
Flat No. 184/A Building No. C	]	
Indian Airlines Colony, Kalina,	]	
Eviction Case No. 148 of 2023	]	
Mob No..	]	
Email-	]	
Mumbai - 29.	]	...Appellant.

Versus

1) Airport Authority of India,	]	
Through – Mr. Radhakrishna	]	
Eviction Officer Western Regional Office	]	
New Airport Colony Andheri	]	
Sahar Road Mumbai – 99.	]	
2) Mumbai International Airport Pvt. Ltd.	]	
Through – Mr. Jeetendra Prakash Sali	]	
Representative MIAL	]	
/Adani Group Terminal 1B	]	
1 st Floor, CSMIA Mumbai 99.	]	...Respondents.

WITH
INTERIM APPLICATION NO. 961 OF 2025
IN
FIRST APPEAL (ST) NO. 36143 OF 2024

Pratibha Mirchandani	]	
Age-60 Years Occp- Air India Service	]	
Flat No. 4/A Building No.42B	]	
Indian Air Line Colony, Kalina,	]	
Eviction Case No. 242 of 2023	]	
Mob No. 8928790945	]	
Mumbai - 29.	]	...Appellant.

Versus

1) Airport Authority of India,	]	
Through – Mr. Radhakrishna	]	
Eviction Officer Western Regional Office	]	
New Airport Colony Andheri	]	
Sahar Road Mumbai – 99.	]	
2) Mumbai International Airport Pvt. Ltd.	]	
Through – Mr. Jeetendra Prakash Sali	]	
Representative MIAL	]	

/Adani Group Terminal 1B
1st Floor, CSMIA Mumbai 99.]
] **...Respondents.**

WITH
INTERIM APPLICATION NO. 978 OF 2025
IN
FIRST APPEAL (ST) NO. 36703 OF 2024

Mr. Sanjay A. Sonawane]
Age-56 Years Occp- Air India Service]
Flat No. 5/B Building No.17]
Indian Airlines Colomy, Kalina,]
Eviction Case No. 147 of 2023]
Mob No. 9820287065.]
Email- sanjaysonawaneairindia@gmail.com]
Mumbai - 29.] **...Appellant.**

Versus

- 1) Airport Authority of India,]
Through – Mr. Radhakrishna]
Eviction Officer Western Regional Office]
New Airport Colony Andheri]
Sahar Road Mumbai – 99.]
- 2) Mumbai International Airport Pvt. Ltd.]
Through – Mr. Jeetendra Prakash Sali]
Representative MIAL]
/Adani Group Terminal 1B]
1st Floor, CSMIA Mumbai 99.] **...Respondents.**

WITH
INTERIM APPLICATION NO. 971 OF 2025
IN
FIRST APPEAL (ST) NO. 37448 OF 2024

Mr. Dattatray Fakira Choudhari]
Age-56 Years Occp- Air India Service]
Flat No. 117A Building No.C]
Old Air India Housing Colomy, Kalina,]
Eviction Case No. 93 of 2023] **...Appellant.**
Mumbai - 29.]

Versus

- 1) Airport Authority of India,]
Through – Mr. Radhakrishna]
Eviction Officer Western Regional Office]
New Airport Colony Andheri]

Sahar Road Mumbai – 99.	]	
2) Mumbai International Airport Pvt. Ltd.	]	
Through – Mr. Jeetendra Prakash Sali	]	
Representative MIAL	]	
/Adani Group Terminal 1B	]	
1 st Floor, CSMIA Mumbai 99.	]	...Respondents.

-
- *Mr. K. J. Dhoke, Mr. Rachit Singh i/b Mr. Nitin Satpute for the Appellant.*
 - *Ms. Shilpa Kapil and Mr. Chidanand Kapil for the Respondent No. 1.*
 - *Mr. Vikram Nankani, Senior Advocate along with Mr. Chirag Kamdar, Ms. Shama Maitra, Ms. Samruddhi Mali i/b Wadia Gandhi & co., for the Respondent No. 2.*
-

Coram : Sharmila U. Deshmukh, J.

Reserved on : January 22, 2025

Pronounced on : February 18, 2025.

Judgment :

1. This group of First Appeals filed under Section 28-K of Airports Authority of India Act, 1994 [for short ***“AAI Act”***] challenges the eviction order of the Eviction Officer appointed under Section 28-B of AAI Act, ordering the Appellants to hand over vacant and peaceful possession of subject airport premises within a period of 15 days from the date of order.

2. The Interim Applications in the First Appeals seek condonation of delay in filing of Appeals setting out identical explanation for the delay. With consent, Interim Application No.979 of 2025 filed in First Appeal (st.) No.35885 of 2024 was taken as lead Interim Application

and pleadings of the said application are referred during the hearing. Common submissions were advanced and the Interim Applications are being disposed of by this common judgment.

3. The delay is for varied periods in the individual Interim Applications, however, the admitted position, without exception is that Appeals have been filed beyond the period of 30 days from the date of passing of respective eviction orders.

4. Mr. Nankani, learned Senior Advocate appearing for Respondent No.2 has tendered a chart giving details of the name of occupant and the date of filing of Appeal. The said chart is not disputed by Mr. Dhoke, learned Counsel appearing for the Appellants. In the chart produced by Mr. Nankani, an additional column has been added by this Court setting out the number of days of delay as mentioned in the Interim Application. For ease of reference the chart is reproduced hereinbelow:

Sr. No.	Name of Occupant	Date of filing appeal	First Appeal (st) No.	Interim Application No.	Number of days delay as per IA.
1.	Anil Bhingardive	4 th December 2024	35116 of 2024	948 of 2025	66
2.	Deepak Nikam	7 th December 2024	35571 of 2024	943 of 2025	72
3.	Santosh Walje	10 th December 2024	35883 of 2024	962 of 2025	72
4.	Mukesh Bhamre	10 th December 2024	35876 of 2024	959 of 2025	72
5.	Sanjay Kamble	10 th December 2024	35856 of 2024	975 of 2025	75
6.	Subhash Bala Pawar	10 th December 2024	35885 of 2024	979 of 2025	75
7.	Sanjay Jagtap	10 th December 2024	35879 of 2024	946 of 2025	72

8.	Mahesh Arondekar	14 th January 2025	1646 of 2025	965 of 2025	110
9.	Mahesh Lohima	9 th December 2024	35636 of 2024	960 of 2025	36
10.	Prafulla Bansode	9 th December 2024	35654 of 2024	964 of 2025	36
11.	K K Shende	9 th December 2024	35638 of 2024	968 of 2025	35
12.	Santosh Tambe	10 th December 2024	35799 of 2024	942 of 2025	36
13.	Bharat Anna Bobade	12 th December 2024	36132 of 2024	958 of 2025	39
14.	Sanjay Vhatkar	12 th December 2024	36130 of 2024	972 of 2025	36
15.	Trimbak Thul	12 th December 2024	36141 of 2024	956 of 2025	39
16.	Pratibha Mirchandani	13 th December 2024	36143 of 2024	961 of 2025	38
17.	Sanjay Sonawane	14 th December 2024	36703 of 2024	978 of 2025	43
18.	Dattatray Choudhari	20 th December 2024	37448 of 2024	971 of 2025	46

PLEADINGS :

5. The Interim Application avers about the litigation instituted by the Applicants against the Respondents i.e. (1) Criminal Writ Petition No. 5134 of 2022 against the alleged disinvestment of Airport Mumbai (2) Criminal complaints by Association before Special Court under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Protection of Civil Rights Act, 1955 i.e. Criminal Miscellaneous Application No.1091 of 2023 and Criminal Miscellaneous Application No.379 of 2024 and (3) Contempt Petition in pending proceedings before the Special Court as eviction orders were passed pending the proceedings.

6. It is further pleaded that the Respondents have not cancelled the allotment orders of residence of the Appellant till date and have initiated eviction proceedings in different manners, i.e., departmental

order for recovery of Rs.10 lakh to Rs.15 lakh from salaries, under PPE Act, 1971 and AAI Act. It is pleaded that essential services have been discontinued therefore police complaints were filed. The eviction orders have been produced before the Special Court which has directed the Respondents to produce authenticated copies of agreements, maps and development plans. Despite thereof, the Respondent No.2 issued 48 hours notice for eviction of the Appellants and hence the Appellant filed Appeal through their Association on 5th November 2024. In view of the objection taken to the filing of Appeal through the Association, separate appeals by individual aggrieved person came to be filed on 5th December 2024 and hence there is delay.

7. To this Application, Respondent No.2 has filed affidavit-in-reply contending that AAI Act is a special enactment and hence the provisions of Limitation Act, 1963 stand excluded. It was pleaded that Section 28-K of AAI Act prescribes the limitation period for filing Appeal and the use of words “but not after the period of thirty days” in proviso to Sub-Section (1) of Section 28-K of AAI Act would exclude applicability of Section 5 of Limitation Act, 1963 in view of Section 29(2) of Limitation Act, 1963. Thus, there is no power with the Appeal Court to condone the delay beyond the statutory period of limitation.

SUBMISSIONS :

8. Mr. Dhoke, learned Counsel appearing for the Applicants would submit that due to procedural lapse there is delay beyond period of 30 days which deserves to be condoned by applying Section 5 of the Limitation Act, 1963. He would re-iterate the previous litigation instituted by the Applicants and would submit that Section 20 of SC/ST Act overrides all other enactments. He would further submit that under Section 12 of the AAI Act, it is the function of Airports Authority to construct residential buildings for its employees and therefore eviction order could not have been passed. He submits that eviction orders are *sub judice* before the Special Court which has issued order directing the Respondents to produce the authenticated copies of agreements, maps and plans. He submits that as 48 hours notice was issued an Appeal came to be filed before this Court through their Association on 4th November 2024, which was later on withdrawn on the objection raised and individual First Appeals came to be filed on 5th December 2024.

9. Mr. Nankani, learned Senior Advocate appearing for the Respondent No.2 would submit that the Appellants were well aware of the impending eviction proceedings in view of the orders passed in previous petitions before this Court which *inter alia* sought to challenge the communication addressed to the individual employees

asking them to give undertaking for vacating allotted accommodation where they are residing. He submits that despite eviction orders having been passed, appeals are not filed within prescribed period of limitation of 30 days. He would submit that under Section 28-K(1) of the AAI Act, the limitation is 15 days for preferring an Appeal against the order of eviction which can be extended upto a period of 30 days and not beyond that as per the proviso to Section 28-K(1) of the AAI Act. He submits that in view of the proviso to Section 28-K(1) of the AAI Act, provisions of Section 5 of the Limitation Act, 1963 stand excluded and therefore there is no power to condone the delay beyond the period of 30 days. In support, he relies upon following decisions :

Municipal Corporation of Greater Mumbai v. Anusaya Sitaram Devrukhkar¹

REASONS AND ANALYSIS :

10. The issue arising for consideration is whether upon reading of the proviso to Section 28-K of AAI Act, there is express exclusion of Section 5 of Limitation Act, 1963 by reason of Section 29(2) of the Limitation Act, 1963, resulting in no discretion left in the Appellate Court to condone the delay beyond period of 30 days from date of eviction order.

1 2025 SCC OnLine Bom 36.

11. Firstly, Section 28-K of the AAI Act which provides for appeal to the High Court will have to be considered, which reads as under:

28-K Appeals to Tribunal. – (1) Any person aggrieved by an order of the eviction officer under the Chapter, may, within fifteen days from the date of such order, prefer an appeal to the High Court.

Provided that the High Court may entertain any appeal after the expiry of the said period of fifteen days, but not after the period of thirty days from the date aforesaid, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.”

12. Section 28-K prescribes a different period of limitation, which is fifteen days from date of the eviction order extendable by further period of 15 days upon sufficient cause being shown i.e. in total a period of 30 days. The extendable period of 15 days after the expiry of initial period of 15 days from date of eviction order requires sufficiency of cause being shown and it is this delay of 15 days which can be condoned.

13. “Prescribed Period” has been defined in Section 2(j) of the Limitation Act, 1963 as period of limitation computed in accordance with the provisions of the Limitation Act, 1963 and “Period of Limitation” means the period of limitation prescribed for any suit, Appeal or Application by the Schedule. By reason of the special period of limitation prescribed by Section 28-K of AAI Act, the provisions of Section 3 of Limitation Act, 1963 will have to be read in context of the period of limitation prescribed by Section 28-K of AAI Act.

14. The prescribed period of limitation would thus be 15 days extendable by further period of 15 days. As the applications seek condonation of delay beyond period of 30 days from date of eviction order, the applicability of Section 5 of Limitation Act, 1963 to the Appeals filed under Section 28-K will have to be considered. In this context Section 29(2) of Limitation Act, 1963 is relevant which reads thus:

29. Savings.— (1)

(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only insofar as, and to the extent to which, they are not expressly excluded by such special or local law.

(3).....

(4).....”

15. Section 29(2) of Limitation Act, 1963 can be read in two parts, the first part deals with the determination of period of limitation in case of special or local law for purpose of Section 3 of Limitation Act and the second part deals with the computation of period of limitation by considering the applicability of Section 4 to 24 of Limitation Act, 1963 if not expressly excluded by the special law.

16. Section 5 of the Limitation Act, 1963 provides for extension of the prescribed period of limitation enabling the admission of any Appeal or application beyond the prescribed period upon sufficient cause being shown. Section 28-K of the AAI Act is similar to Section 5 of the Limitation Act, 1963 which provides for extension of period of limitation beyond 15 days, the differentiating factor being that whereas Section 5 of the Limitation Act, 1963 does not place any outer limit on the period of delay which can be extended, Section 28-K of the AAI Act provides that the Appeal cannot be entertained beyond the period of 30 days from eviction order.

17. The proviso to Section 28-K of AAI uses the expression “but not after the period of thirty days” which has the effect of placing an outer limit on the period of delay which can be condoned and results in express exclusion of Section 5 of Limitation Act, 1963. By exclusion of Section 5 of Limitation Act, 1963, there is no discretion vested in the Appellate Court to condone the delay beyond the period of 30 days from date of eviction order.

18. In *MCGM v. Anusaya Sitaram Devrukhkar* (supra), the Division Bench of this Court was considering Section 29(2) of the Limitation Act, 1963 in the context of Section 74(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which provided for limitation of 60 days with further

extension of 60 days by using the expression “not exceeding sixty days”. The Division Bench applied the ratio of decision of the Apex Court in ***Union of India v. Popular Construction Company***² which held as under :

“4. Before us, the appellant has not disputed the position that if the Limitation Act, 1963 and in particular Section 5, did not apply to Section 34 of the 1996 Act, then its objection to the award was time-barred and the appeal would have to be dismissed. The submission, however, is that Section 29(2) of the Limitation Act makes the provisions of Section 5 of the Limitation Act applicable to special laws like the 1996 Act since the 1996 Act itself did not expressly exclude its applicability and that there was sufficient cause for the delay in filing the application under Section 34. Counsel for the respondent, on the other hand, has submitted that the language of Section 34 plainly read, expressly excluded the operation of Section 5 of the Limitation Act and that there was as such no scope for assessing the sufficiency of the cause for the delay beyond the period prescribed in the proviso to Section 34.

5. The issue will have to be resolved with reference to the language used in Section 29(2) of the Limitation Act, 1963 and Section 34 of the 1996 Act. Section 29(2) provides that:

“29. (2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of Section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4 to 24 (inclusive) shall apply only insofar as, and to the extent to which, they are not expressly excluded by such special or local law.”

6. On an analysis of the section, it is clear that the provisions of Sections 4 to 24 will apply when:

- (i) there is a special or local law which prescribes a different period of limitation for any suit, appeal or application; and
- (ii) the special or local law does not expressly exclude those sections.

2 (2001) 8 SCC 470.

7. There is no dispute that the 1996 Act is a "special law" and that Section 34 provides for a period of limitation different from that prescribed under the Limitation Act. The question then is — is such exclusion expressed in Section 34 of the 1996 Act? The relevant extract of Section 34 reads:

"34. Application for setting aside arbitral award.-- (1)-

(2)***

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under Section 33, from the date on which that request had been disposed of by the Arbitral Tribunal:

Provided that if the court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter."

8. Had the proviso to Section 34 merely provided for a period within which the court could exercise its discretion, that would not have been sufficient to exclude Sections 4 to 24 of the Limitation Act because "mere provision of a period of limitation in howsoever peremptory or imperative language is not sufficient to displace the applicability of Section 5" [*Mangu Ram v. Municipal Corpn. of Delhi*, (1976) 1 SCC 392 at p. 397, para 7 : 1976 SCC (Cri) 10].

9. That was precisely why in construing Section 116-A of the Representation of the People Act, 1951, the Constitution Bench in *Vidyacharan Shukla v. Khubchand Baghel* [AIR 1964 SC 1099] rejected the argument that Section 5 of the Limitation Act had been excluded : (AIR p. 1112, para 27)

"27. It was then said that Section 116-A of the Act provided an exhaustive and exclusive code of limitation for the purpose of appeals against orders of tribunals and reliance is placed on the proviso to sub-section (3) of that section, which reads:

'Every appeal under this Chapter shall be preferred within a period of thirty days from the date of the order of the Tribunal under Section 98 or Section 99.

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.'

The contention is that sub-section (3) of Section 116-A of the Act not only provides a period of limitation for such an appeal, but also the circumstances under which the

delay can be excused, indicating thereby that the general provisions of the Limitation Act are excluded. There are two answers to this argument. Firstly, Section 29(2)(a) of the Limitation Act speaks of express exclusion but there is no express exclusion in sub-section (3) of Section 116-A of the Act; secondly, the proviso from which an implied exclusion is sought to be drawn does not lead to any such necessary implication."

10. This decision recognises that it is not essential for the special or local law to, in terms, exclude the provisions of the Limitation Act. It is sufficient if on a consideration of the language of its provisions relating to limitation, the intention to exclude can be necessarily implied. As has been said in *Hukumdev Narain Yadav v. Lalit Narain Mishra* [(1974) 2 SCC 133] : (SCC p. 146, para 17)

"If on an examination of the relevant provisions it is clear that the provisions of the Limitation Act are necessarily excluded, then the benefits conferred therein cannot be called in aid to supplement the provisions of the Act."

11. Thus, where the legislature prescribed a special limitation for the purpose of the appeal and the period of limitation of 60 days was to be computed after taking the aid of Sections 4, 5 and 12 of the Limitation Act, the specific inclusion of these sections meant that to that extent only the provisions of the Limitation Act stood extended and the applicability of the other provisions, by necessary implication stood excluded [*Patel Naranbhai Marghabhai v. Dhulabhai Galbabbhai*, [(1992) 4 SCC 264].

12. As far as the language of Section 34 of the 1996 Act is concerned, the crucial words are "but not thereafter" used in the proviso to sub-section (3). In our opinion, this phrase would amount to an express exclusion within the meaning of Section 29(2) of the Limitation Act, and would therefore bar the application of Section 5 of that Act. Parliament did not need to go further. To hold that the court could entertain an application to set aside the award beyond the extended period under the proviso, would render the phrase "but not thereafter" wholly otiose. No principle of interpretation would justify such a result."

19. The Division Bench concluded in paragraph 32 as under:

"In view of the above discussion, we hold that Section 5 of the Limitation Act cannot be invoked by this Court for entertaining an appeal filed against the decision or order of the Tribunal beyond the

period of 120 days specified in Section 125 of the Electricity Act and its proviso. Any interpretation of Section 125 of the Electricity Act which may attract the applicability of Section 5 of the Limitation Act read with Section 29(2) thereof will defeat the object of the legislation, namely, to provide special limitation for filing an appeal against the decision or order of the Tribunal and proviso to Section 125 will become nugatory."

20. The ratio of decision in ***MCGM vs Anusuya Sitaram Devrukhkar*** (supra) is squarely applicable to the present case. In the present case, the proviso to Section 28-K of AAI Act uses the language ***"but not after the period of thirty days"*** which makes it evident that the legislative intent is to provide special period of limitation and exclude application of Section 5 of Limitation Act, 1963.

21. The inevitable conclusion is that the proviso to Sub-Section (1) of Section 28-K of the AAI Act expressly excludes the application of Section 5 of the Limitation Act, 1963 and resultantly, there is no power vested in the Appeal Court to condone delay beyond the maximum period of 30 days. As the applicability of Section 5 of Limitation Act, 1963 is excluded, the Appeals admittedly having been filed beyond the period of 30 days are liable to be dismissed. It is not necessary to go into the sufficiency of the cause shown for condonation of delay beyond 30 days in light of the discussion above.

22. As regards the reliance placed on order of Apex Court dated 16th February, 2024, the Special Leave Petitions arose out of judgment passed by this Court in Petitions challenging the order declining to

make reference to CGIT, the charging of penal rent and damages and withholding of Performance Linked Incentive. The order of Apex Court would not have the effect of extending the period of limitation of 30 days and in fact the Apex Court has directed that in event the eviction orders are passed, the same not to be implemented for period of 30 days, which is in accordance with the prescribed period of limitation.

23. As regards the contention about the overriding effect of Section 20 of SC/ST Act, the same applies in event there is conflict between the said enactment and other statutes. The present issue is about condonation of delay and Section 20 of SC/ST Act has no applicability.

24. In the light of above discussion, as all the Interim Applications pray for condonation of delay in filing of Appeal beyond 30 days, the same stand dismissed.

25. In view of the dismissal of above Interim Applications, First Appeals do not survive for consideration and stand dismissed.

[Sharmila U. Deshmukh, J.]