



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 952 OF 2025
IN
FIRST APPEAL (ST) NO. 35568 OF 2024

Kishor J. Dhoke	]	
Age 64 years, Occp. - Air India Service,	]	
Flat No. Building No. R-463,	]	
Air India Colony, Kalina,	]	
Santacruz East, 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. 973 OF 2025
IN
FIRST APPEAL (ST) NO. 35633 OF 2024

Mr. Sudhir Shrikant Rawat,	]	
Age = 41 years, Occp. - Air India Service,	]	
Flat No. 23, Building No. 6A,	]	
Indian Airlines Colony, Kalina,	]	
Santacruz East, Mumbai.	]	
Eviction Case No. 282 of 2023	]	
Email – sudhir.rawat2@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. 970 OF 2025
IN
FIRST APPEAL (ST) NO. 35650 OF 2024

Jalal H. Agha]
 Age 48 years, Occp. - Air India Service,]
 Flat No. Building No. 19/7A]
 Ol Air India Colony, Kalina,]
 Santacruz East, 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. 977 OF 2025
IN
FIRST APPEAL (ST) NO. 35656 OF 2024

Mr. Gyaneshwar Chandrakant Waghe]
 Age 54 years Occp- Air India Service]
 Flat No. 6, building No. 17B Indian Air Lines]
 Colony Kalina Santacruz (East)]
 Eviction case No. 180 of 2023]
 Mob No. 9819827304]
 Email- gcwaghe15@gmail.com]
 Mumbai-29.] **...Appellant.**

Versus

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

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|---|---|------------------------|
| 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. 976 OF 2025
IN
FIRST APPEAL (ST) NO. 35640 OF 2024

Mr. Sanjay C. Mohile	]	
Age 65 Years Occp- Air India Service	]	
Flat No.356/B Building No. H	]	
Indian Airlines Colomy Kalina,	]	
Eviction Case No. 285 of 2023	]	
Mob No. 9869147745	]	
Email-sanjay.c.mohile@gmail.com	]	
Mumbai – 29.	]	...Appellant.

Versus

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| 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. 954 OF 2025
IN
FIRST APPEAL (ST) NO. 35652 OF 2024

Mr. Bhagwan S. Padvi	]	
Age 54 Years Occp- Air India Service	]	
Flat No.13 Building No.7	]	
Indian Airlines Colomy, Kalina,	]	
Eviction Case No. 271 of 2023	]	
Mob No. 9321140639	]	
Email- bspadvi20@gmail.com	]	
Mumbai - 29.	]	...Appellant.

Versus

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|---|---|------------------------|
| 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. 947 OF 2025
IN
FIRST APPEAL (ST) NO. 35658 OF 2024

Mr. Raju Saibu Anna Reddy	]	
Age 56 Years Occp- Air India Service	]	
Flat No. 10 Building No.2	]	
Air India Colony, Kalina,	]	
Santacruz (East),	]	
Eviction Case No. 90 of 2023	]	
Mob No. 7506191643	]	
Email- rajuanna1967@gmail.com	]	
Mumbai - 29.	]	...Appellant.

Versus

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|---|---|------------------------|
| 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. 963 OF 2025
IN
FIRST APPEAL (ST) NO. 35874 OF 2024

Mr. Pravin Powar	]	
Age-57 Years Adult Occp- Air India Service	]	

Flat No.11 Building No.6A
Indian Air Line colony, Kalina,
Santacruz (East),
Eviction Case No. 289 of 2023
Mob No. 8779406616
Email- pravinpowar66@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. 967 OF 2025
IN
FIRST APPEAL (ST) NO. 35802 OF 2024

Mr. Anna Manaji Parkhe
Age-55 Years Occp- Air India Service
Flat No. 7/A 3rd floor Building No.4
Indian Airlines Colomy, Kalina,
Eviction Case No. 271 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
1st Floor, CSMIA Mumbai 99.] ...Respondents.

WITH
INTERIM APPLICATION NO. 945 OF 2025
IN
FIRST APPEAL (ST) NO. 35872 OF 2024

Mr. Vinod S. Naik	]	
Age-56 Years Occp- Air India Service	]	
Flat No. 1 Building No.18	]	
Air India Colony, Kalina,. Santacruz (East)	]	
Eviction Case No. 40 of 2023	]	
Mob No. 9869133291	]	
Email- vinod.naik1568@gmail.com	]	
Mumbai – 29.	]	...Appellant.

Versus

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|---|---|------------------------|
| 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. 969 OF 2025
IN
FIRST APPEAL (ST) NO. 36134 OF 2024

Mr. Sanjay B. More	]	
Age-54 Years Occp- Air India Service	]	
Flat No. 11/B 1 st Floor Building No.17	]	
Indian Airlines Colony, Kalina,.	]	
Eviction Case No. 167 of 2023	]	
Mob No. .	]	
Email-	]	
Mumbai - 29.	]	...Appellant.

Versus

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|--|---|
| 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. 950 OF 2025
IN
FIRST APPEAL (ST) NO. 36139 OF 2024

Mr. Rajendra Vitthal Bhalerao]
Age-57 Years Occp- Air India Service]
Flat No. 31 Building No.16/31]
Indian Airlines Colomy, Kalina,.]
Eviction Case No. 290 of 2023]
Mob No. 9372186716]
Email- bhaleraorendra159@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. 974 OF 2025
IN
FIRST APPEAL (ST) NO. 36128 OF 2024

Mr. M.S. Hariharan]
Age-60 Years Occp- Air India Service]
Flat No. 4B 1st Housing floor Building No.26]
Indian Airlines Colomy, Kalina,.]
Eviction Case No. 276 of 2023]
Mob No. .]
Email-]
Mumbai - 29.] **...Appellant.**

Versus

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|---|---|------------------------|
| 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. |

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- *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.*
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Coram : Sharmila U. Deshmukh, J.

Reserved on : February 12., 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 of parties, Interim Application No.952 of 2025 filed in First Appeal (st.) No.35569 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 group of Interim Applications seek condonation of delay for varied period. 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 giving 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.	Kishor Dhoke	7 th December 2024	35568 of 2024	952 of 2025	19
2.	Sudhir Rawat	9 th December 2024	35633 of 2024	973 of 2025	21
3.	Jalal Agha	9 th December 2024	35650 of 2024	970 of 2025	21
4.	Gyaneshwar Waghe	9 th December 2024	35656 of 2024	977 of 2025	21
5.	Sanjay Mohile	9 th December 2024	35640 of 2024	976 of 2025	21
6.	Bhagwan Padvi	9 th December 2024	35652 of 2024	954 of 2025	21
7.	Raju Reddy	9 th December 2024	35658 of 2024	947 of 2025	21
8.	Pravin Powar	10 th December 2024	35874 of 2024	963 of 2025	19
9.	Anna Parkhe	10 th December 2024	35802 of 2024	967 of 2025	21
10.	Vinod Naik	10 th December 2024	35872 of 2024	945 of 2025	21

11.	Sanjay More	12 th December 2024	36134 of 2024	969 of 2025	24
12.	R V Bhalerao	12 th December 2024	36139 of 2024	950 of 2025	24
13.	M S Hariharan	12 th December 2024	36128 of 2024	974 of 2025	24

PLEADINGS :

4. 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.

5. 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 6th December 2024 and hence there is delay.

SUBMISSIONS :

6. Mr. Dhoke, learned Counsel appearing for the Appellant has tendered his written arguments. Though the written arguments contain gist of arguments for the First Appeal and the arguments on the other litigation pending between the parties, what is relevant for our purpose is the submissions on the aspect of condonation of delay which is set out in Exhibit "B" to the written arguments. Perusal of the said Exhibit "B" discloses that the submission is that on 29th September, 2021 eviction proceedings were initiated by the Respondents and Writ Petition(L) No 19001 of 2022 was filed by Air Corporation of SC and ST employees Association, which came to be disposed of vide order dated 24th September, 2022 granting liberty to file separate Petitions. It is submitted that pending the various criminal petitions filed against the Respondents, final eviction orders were issued on 26th April, 2024, 4th October, 2024, 18th October, 2024 and 4th November, 2024.

7. It is submitted that the order dated 13th March, 2023 passed in

Writ petition No 34307 of 2022 in matter of disinvestment, the High Court had restrained the Respondent from recovering penal rent or damages. It is submitted that the Association had filed Appeal No 1798 of 2024 before this Court on 5th November, 2024 against the 48 hours eviction notice dated 4th November, 2024 and upon objection separate appeals were filed by 57 employees and therefore there is delay. It is further submitted that as per direction of Apex Court the time period for eviction should be 30 days and hence time period mentioned in Section 28K of AAI Act is not applicable.

8. A chart is annexed to the written arguments which sets out that the eviction orders in these group of applications have been passed on 18th October, 2024, as per the order of Apex Court period of 30 days expired on 18th November 2024 and date of filing of Appeals are 7th December, 2024 , 9th December, 2024, 10th December, 2024 and 12th December, 2024. The period of delay varies between 19 days to 24 days as per the Applicant's calculation.

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 provisions of 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 to 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 and Section 14 of the Limitation Act, 1963 stand excluded and therefore there is no power to condone the delay beyond the period of 30 days. He submits that the order of Apex Court dated 16th February, 2024 clarified that even if orders of eviction are passed, the same shall not be implemented for period of one month from date on which copies of relevant orders are served to enable them to prefer statutory appeals. He submits that the order of Apex Court is in consonance with the period of limitation of Appeal and could not be read as extending the prescribed period of limitation.

10. He would further submit that the provisions of Section 14 of Limitation Act, 1963, is inapplicable as the conditions are not satisfied. He submits that although it is sought to be contended that Appeal was filed by the Association, the Appeal by Association did not list the members on whose behalf the Appeal was filed and annexed only evictions orders of Ms. Kashmiri Gogoi, Ms. Mamta Iswary and Kishor

Dhoke. He submits that for application of Section 14 of Limitation Act, the proceedings must be between the same parties, must be filed for seeking the same relief, the earlier proceeding must have failed owing to defect of jurisdiction and the earlier proceeding must have been prosecuted in good faith. He submits that all these conditions are not satisfied in the present case. In support, he relies upon following decisions :

***Municipal Corporation of Greater Mumbai v. Anusaya Sitaram Devrukhkar*¹**

***HPCL Bio-Fuels Ltd vs Shahaji Bhanudas Bhad*²**

REASONS AND ANALYSIS :

11. The issues arising for consideration is firstly 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 and secondly whether benefit of Section 14 of Limitation Act, 1963 is available to the Applicants.

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

1 2025 SCC OnLine Bom 36.

2 2024 SCC OnLine SC 3190.

“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.”

13. 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.

14. “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.

15. 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).....”

16. 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.

17. The eviction orders were passed on 18th October, 2024 and First Appeal (St.) No.1798 of 2024 came to be filed by the Air Corporation of

Scheduled Castes and Scheduled Tribes Employees Association Through-Reporting Trustee on 5th November, 2024. Upon objection being raised to the challenge through the Association, the Appeal came to be withdrawn and individual Appeals were filed on 5th December, 2024. The period of 30 days provided under Section 28-K of the AAI Act expired on 18th November, 2024.

18. The days of delay are calculated by the Applicants by considering the period from expiry of period of limitation, i.e. 18th November, 2024 to 7th December, 2024. In event the period during which the Appeal filed by the Association was being prosecuted is to be excluded, the Appeal would be within time. In other words, the applicability of Section 14 of Limitation Act, 1963 will have to be considered which reads thus:

“14. Exclusion of time of proceeding *bona fide* in court without jurisdiction. – (1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of the appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(3) Notwithstanding anything contained in rule 2 of Order

XXIII of the Code of Civil Procedure, 1908, the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on permission granted by the court under rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the Court or other cause of a like nature.

Explanation- For the purpose of this section,-

(a) in excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted;

(b) a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding;

(c) misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction."

19. It is only upon satisfaction of the conditions laid down in Section 14 of Limitation Act, 1963 that the benefit of exclusion of period of limitation will be available to the Applicants. The earlier Appeal (St) No 1798 of 2024 was filed by the Air Corporation of Schedule Castes and Scheduled Tribes Employees Association seeking blanket prayer of setting aside the eviction orders dated 26th August, 2024, 4th October, 2024, 18th October, 2024 and 48 hours notice dated 4th November, 2024 without any reference to the individual employee who had suffered the eviction order. Paragraph 6 of the Appeal referred to and annexed three eviction orders issued to Kashmiri Gogoi dated 26th August, 2024, Mamta Iswary dated 4th October, 2024 and Kishor Dhoke dated 18th October, 2024. There is no pleading in the Appeal that the present

Applicants are members of the Association. An Interim Application came to be filed in the Appeal on 26th November, 2024, i.e. beyond the period of limitation for adding individual parties to the Appeal, which Application was not moved and the Appeal came to be withdrawn.

20. Section 14(2) of the Limitation Act, 1963 mandates that the earlier and subsequent proceedings to be (a) against the same party, (b) for the same relief, (c) to be prosecuted in good faith, and (d) earlier proceeding fails for the defect of jurisdiction. The earlier Appeal was filed by the Association whereas the subsequent Appeals are filed by the individual employees, who were not party to the earlier Appeal. Secondly, the relief claimed in the present Appeal is not the same relief as in the earlier proceedings. There was blanket challenge to the eviction orders whereas in present proceedings specific individual eviction orders are challenged and thirdly, the earlier proceeding did not fail owing to defect of jurisdiction. The non satisfaction of the essential conditions of Section 14(2) of Limitation Act, 1963 deprives the Applicants of the benefit of the same.

21. Section 14 of Limitation Act, 1963 deals with exclusion of period while computing the period of limitation and the provisions of AAI Act are not shown to specifically exclude the applicability of Section 14 of Limitation Act, 1963. However, in facts of present case, the benefit of

Section 14 of Limitation Act, 1963 is not available to the Applicants.

22. On the other hand, Section 5 of Limitation Act, 1963 deals with extension of period of limitation and 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 Appeal cannot be entertained beyond the period of 30 days from eviction order.

23. 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.

24. 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***³ 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

3 (2001) 8 SCC 470.

period of limitation for any suit, appeal or application; and
(ii) the special or local law does not expressly exclude those sections.

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."

25. 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."

26. 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.

27. 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 conditions of Section 14 of Limitation Act, 1963 are not satisfied and the applicability of Section 5 of Limitation Act, 1963 is excluded, the Appeals having been filed beyond the period of 30 days from the date of eviction orders 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.

28. As regards the reliance placed on the 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.

29. 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.

30. In the light of above discussion, the Interim Applications stand dismissed.

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

[Sharmila U. Deshmukh, J.]