

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3865 OF 2025

Digitally
signed by
ATUL
GANESH
KULKARNI
Date:
2025.03.20
14:29:58
+0530

Laxmi Mahadev Ghanekar, through
CA Suvarna Suresh Ambekar ... Petitioner

V/s.

Grievance Redressal Committee,
Mumbai Suburban & Ors. ... Respondents

Mr. Nitesh S. Acharya with Mr. Akash S. Bhagil and Mr.
Mazhar Khan for the petitioner.

Ms. Dhruti Kapadia for respondent Nos.1 & 2-GRC.

Ms. Tanaya Goswami for respondent No.3-SRA.

Mr. Sagar Batavia for respondent No.6.

Mr. O.A. Chandurkar, Additional G.P. with Mr. N.K.
Rajpurohit, AGP for respondent No.7.

CORAM : AMIT BORKAR, J.

DATED : MARCH 20, 2025

P.C.:

1. The challenge in the present writ petition is directed against the order passed by the Appellate Authority constituted under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (hereinafter referred to as "the Slum Act"). The said order was rendered in an appeal filed with a delay of 1205 days. Upon perusal of the record, it is evident that the Appellate Authority has recorded a categorical finding that the

appellant was well aware of the order sought to be challenged. Despite such knowledge, the appellant failed to exercise the statutory remedy of appeal within the prescribed period of 30 days. The explanation tendered by the petitioner for the inordinate delay was examined in light of Section 5 of the Limitation Act, 1963, and was found to be unsatisfactory. Consequently, the Appellate Authority declined to condone the delay and dismissed the appeal.

2. The primary contention urged by the petitioner is that the Appellate Authority, while dismissing the appeal on the ground of delay, has proceeded to decide the appeal on merits, thereby setting aside the petitioner's eligibility as recognized in Annexure-II. Such an approach, according to the petitioner, is legally impermissible and contrary to the settled principles of law.

3. It is a well-settled principle of law that when an appellate forum declines to condone the delay in filing an appeal, the natural consequence is the dismissal of the appeal without entering into the merits of the case. When an appellate authority finds the appeal to be barred by limitation and refuses to condone the delay, it has no jurisdiction to examine the matter on merits.

4. In the present case, after recording a finding that no sufficient cause was made out for condonation of delay, the Appellate Authority ought to have confined itself to the dismissal of the appeal on that ground alone. However, it appears that the Appellate Authority, in the same breath, proceeded to direct an inquiry and set aside Annexure-II in relation to Slum Nos. 224.

Such an approach is legally unsustainable, as it traverses beyond the scope of jurisdiction once the appeal itself was not entertained on the ground of limitation.

5. Therefore, in my considered view, Clauses 2A and 3 of the impugned order, which deal with the merits of the matter despite the refusal to condone delay, cannot be legally sustained. The same are accordingly quashed and set aside. The rest of the order, to the extent it pertains to the dismissal of the appeal on the ground of limitation, remains undisturbed.

6. The writ petition stands disposed of in the aforesaid terms. There shall be no order as to costs.

(AMIT BORKAR, J.)