Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10520 OF 2025

Sanjay M. Parekh … Petitioner
V/s.
The State of Maharashtra … Respondent

Mr. Aadil Parsuram Puria a/w Aalam Paruram Puria, Kajeshri Thakker i/b Prashant Parsuram Puria, for the Petitioner.

Mr. A. A. Alasparkar, AGP, for the State – Respondent Nos.1 to 3.

Mr. Chetan Yadav i/b R. V. & Co., for Respondent No.5.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 15, 2025

P.C.:

1. The grievance raised in the present petition stems from the order dated 24 May 2021 passed by the Revisional Authority, by which the recovery certificate issued in favour of the respondent housing society under Section 101 of the Maharashtra Co-operative Societies Act, 1960 came to be upheld. The petitioner contends that the very basis of recovery is unlawful. The principal objection is that the society has impermissibly loaded the demand by charging interest upon interest, interest upon penalty, and interest upon GST components, which according to the petitioner is contrary to law.

2. The learned Advocate appearing for the respondent society has controverted these assertions. He submits that the society has not levied any interest on penalty or interest on GST amounts. According to him, the interest charged forms part of the lawful dues and strictly conforms to the society's bye-laws as well as the scheme of the MCS Act and the Rules framed thereunder. He further submits that the present petition suffers from gross delay. The impugned order was passed on 24 May 2021 after granting due opportunity of hearing to the petitioner, yet the petition has been instituted only on 11 July 2025, almost four years later, without any cogent or acceptable explanation for such prolonged inaction.

3. The petitioner, in addition to the explanation offered in the writ petition, filed an additional affidavit dated 24 September 2025 pursuant to the liberty granted by this Court to clarify the delay. Even this additional affidavit does not bridge the critical gap. It offers no explanation for the period commencing from 31 December 2022, when the petitioner's sister in law passed away, until 2 June 2024, when the petitioner claims to have been detected or diagnosed with a brain tumour. This substantial stretch of time remains wholly unaccounted for.

4. The petitioner placed reliance on the judgment of the Hon'ble Supreme Court in *Inder Singh v. State of Madhya Pradesh, 2025 SCC OnLine SC 600*. In that case, the Supreme Court, after surveying earlier precedents, condoned the delay in filing a second appeal subject to payment of costs of Rs.50,000. There can be no quarrel with the legal principle laid down by the Apex Court. The real issue, however, is whether that principle can be applied to the facts of the present case, having regard to the nature of delay and the absence of a satisfactory explanation for a substantial part thereof.

5. Quite apart from the weakness of the reasons put forward, one fact stands out clearly. The petitioner has offered no explanation at all for the long period between December 2022 and June 2024. The record remains silent on this entire stretch of time. Even if this Court were to accept that the circumstances stated in the additional affidavit dated 24 September 2025 explain the delay after 2 June 2024, the earlier delay remains unexplained. Delay must be explained day by day when it is substantial. Here, a large block of time is left unanswered. In such a situation, the Court cannot overlook the lapse. This is more so when the petitioner continues to occupy the premises of the society and enjoys its facilities, while the society continues to raise maintenance and other lawful charges for such occupation. Equity does not support a party who seeks indulgence of the Court while remaining in continuous default.

6. When all these aspects are considered together, the conclusion becomes inevitable. The petitioner has failed to make out a case for invoking the extraordinary jurisdiction of this Court. The delay is not satisfactorily explained, and the conduct of the petitioner does not justify interference with the impugned order.

7. The writ petition, therefore, deserves to be dismissed. It is accordingly dismissed. There shall be no order as to costs.

8. The society has stated that the present petition came to be filed only after the petitioner's premises were attached in May 2025. Any amounts that have been paid by the petitioner shall stand appropriated towards the outstanding dues covered by the recovery certificate issued under Section 101 of the Maharashtra Co operative Societies Act, 1960.

(AMIT BORKAR, J.)