



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10924 OF 2025**

Shobha Vasant Bhoir and Ors. ... Petitioners
versus
The Police Commissioner and Ors. ... Respondents

Mr. Girish Agarwal with Mr. Shubham Jangam, Mr. Karan Singh Chawla, for
Petitioners.

Mrs. Savina Crasto, AGP for Respondent Nos.1 to 5 and 7.

CORAM: N.J.JAMADAR, J.

DATE : 24 SEPTEMBER 2025

ORAL JUDGMENT :

1. Heard the learned Counsel for the parties.
2. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.
3. The challenge in this Petition is to an order dated 17 July 2025, passed by the Chief Settlement Commissioner in an application being No.2 of 2025, preferred to condone the delay in preferring Revision under Section 24 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, whereby the Settlement Commissioner has condoned the delay of about six years in entertaining the Revision Application and, by the very same order, stayed the execution, operation and implementation of the Sanad (Conveyance) No.SDO/Plot/C-4/CDR-233/2019 granted in favour of the Petitioners, on 16 March 2019.

4. The property of the Petitioners was acquired by the State Government for the purpose of the Police Department. The Petitioners claimed relief under the said Act, 1954. Pursuant to the order passed by the Revisional authority, a conveyance came to be executed in favour of the Petitioners on 16 March 2019. The Petitioners paid a sum of Rs.10,71,678/- towards the consideration.

5. Subsequently, the Sub-Divisional Officer (SDO) – Managing Officer, Ulhasnagar, issued a Corrigendum dated 4 June 2019, followed by a Deed of Conveyance dated 6 August 2019 in favour of Respondent No.1. The very same property was professed to be conveyed in favour of Respondent No.1 under the Conveyance dated 6 August 2019.

6. Being aggrieved, the Petitioners preferred WP No.9818 of 2019. By a judgment and order dated 12 December 2024, a Division Bench of this Court was persuaded to quash and set aside the Corrigendum dated 4 June 2019, and the Conveyance dated 6 August 2019 and restore the Conveyance deed in favour of the Petitioners dated 16 March 2019, whereby the Petitioners were allotted land admeasuring 1453.3/9 sq.yards. The Division Bench, however, clarified that the Respondents were not thereby precluded from taking an appropriate action, as is permissible in law, about the allotment and conveyance in favour of the Petitioners.

7. Availing the aforesaid liberty, Respondent No.1 filed a Revision

Application before the Chief Settlement Commissioner under Section 24 of the Act, 1954. As there was a delay in filing the said Revision, an application for condonation of delay came to be filed. By the impugned order, the Respondent No.2 allowed the application for condonation of delay and, simultaneously, granted stay to the execution, operation and implementation of the Conveyance in favour of the Petitioners.

8. Being aggrieved, the Petitioners have again invoked the writ jurisdiction.

9. Mr. Agarwal, learned Counsel for the Petitioners, submitted that the impugned order suffers from manifest error in law. Firstly, the Chief Settlement Commissioner has not ascribed any reason as to why the delay in preferring the revision deserved to be condoned. In fact, the Chief Settlement Commissioner has not examined the genuineness of the reasons and the sufficiency of cause ascribed for the delay in preferring the revision. On the contrary, the Chief Settlement Commissioner has condoned the delay adverting to the merits of the matter.

10. Secondly, the Chief Settlement Commissioner was in error in granting stay to the execution, operation and implementation of the Conveyance in favour of the Petitioners, when the proceedings before the Chief Settlement Commissioner were only to determine as to whether the delay was required to be condoned or not. If the Chief Settlement Commissioner was inclined to

consider the prayer to stay the execution, operation and implementation of the conveyance granted in favour of the Petitioners, the proper course would have been to condone the delay and provide an opportunity of hearing to the Petitioners on the substance of the matter. Therefore, the impugned order deserves to be quashed and set aside.

11. To lend support to these submissions, Mr. Agarwal placed reliance on a recent pronouncement of the Supreme Court in the case of **H. Guruswamy and Ors. V/s. A. Krishnaiah (deceased) and Ors.**¹ wherein the Supreme Court enunciated that, while considering the plea for condonation of delay, the Court must not start with the merits of the main matter. The Court owes a duty to first ascertain the bona fide of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced, the Court may bring into aid the merits of the matter for the purpose of condoning the delay.

12. In opposition to this, Ms. Crasto, the learned AGP, submitted that by the impugned order, the Chief Settlement Commissioner has merely condoned the delay. The Petitioners will have an efficacious opportunity to contest the revision application on merits. It was submitted that, having regard to the exigency of the situation, which arose on account of two conveyance deeds having been executed in respect of one and the same property, the Chief

1 2025(1) Apex Court Judgments 432 (SC)

Settlement Commissioner considered it expedient to stay the execution, operation and implementation of the conveyance granted in favour of the Petitioners. The said order, according to Ms. Crasto, does not warrant interference in exercise of writ jurisdiction.

13. I have carefully perused the material on record and given anxious consideration to the submissions canvassed across the bar. To begin with, it is necessary to note that, by a judgment and order dated 12 December 2024 in WP No.9818 of 2019, the Division Bench has already quashed and set aside the Corrigendum dated 4 June 2019 and the Conveyance dated 6 August 2019. In this view of the matter, the very premise on which the Chief Settlement Commissioner has proceeded, namely, that there are two conveyances in respect of one and the same property was flawed. By the said judgment and order, the Division Bench has granted liberty to the Respondents to take recourse to the remedy as available in law with regard to the deed of conveyance in favour of the Petitioners. However, the said liberty does not imply that the deed of conveyance in favour of the Respondent No.1, which has been quashed and set aside, can be resurrected and considered to be in existence.

14. The Court is conscious of the fact that, the challenge in this Petition is to an order condoning the delay in preferring the revision. Ordinarily, where the Court or tribunal below exercises discretion to condone the delay, the

appellate or supervisory court is not expected to lightly interfere with the exercise of the discretion to condone the delay, as it is an act of positive exercise of discretion. On the contrary, if the court below has declined to condone the delay, the appellate or supervisory court can independently consider the aspect of condonation of delay, as the entire matter is open for evaluation. The appellate or supervisory court would interfere with the positive exercise of discretion to condone the delay only when the order is perverse or delay has been condoned without examining the justifiability of the reasons for the condonation of delay.

15. On the aforesaid touchstone, reverting to the facts of the case, this Court finds that the impugned order singularly lacks consideration on the genuineness and bonafide of the reasons ascribed by the Respondent No.1 for the condonation of delay in preferring the revision. The Chief Settlement Commissioner has simply narrated the facts and submissions and noted that the two conveyances were executed in respect of one and the same property, and, thereafter, by a single line, ruled that the delay is condoned. No reason has been ascribed by the Chief Settlement Commissioner as regards the justifiability of the reason or sufficiency of the cause ascribed by the Respondent No.1 for the delay of about six years in preferring the revision.

16. The submission of Mr. Agarwal that, the Chief Settlement Commissioner gave undue weight to the merits of the matter and that vitiated the

consideration on the aspect of condonation of delay appears well merited. As noted above, the Supreme Court in the case of **H. Guruswamy and Ors. (supra)**, has cautioned against advertent to the merits of the main matter while considering the application for condonation of delay. The merits of the main matter can be gone into if, on balance, the Court finds that the applicant has made out a sufficient cause and the opposition thereto is equally sturdy.

17. The impugned order, thus, suffers from the vice of solely advertent to the merits of the matter and ignoring the sufficiency of the cause and the bonafide of the Respondent No.1 in seeking condonation of delay in filing revision application.

18. Resultantly, the impugned order cannot be sustained. The Writ Petition, therefore, deserves to be allowed and the application for condonation of delay is required to be remitted back to the Chief Settlement Commissioner for afresh decision in accordance with law.

19. Hence, the following order :

ORDER

(i) The impugned order dated 17 July 2025 stands quashed and set aside.

(ii) The application for condonation of delay in preferring Revision stands remitted back to the Chief Settlement Commissioner for afresh decision in accordance with law.

(iii) The Chief Settlement Commissioner is requested to hear and decide the said Revision Application as expeditiously as possible and keeping in view the principles which govern the determination of an application for condonation of delay.

(iv) Rule made absolute in the aforesaid terms with no order as to costs.

(N.J.JAMADAR, J.)