

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL WRIT PETITION NO. 15133 OF 2025

Ashok Rajendraprasad Gupta

..Petitioner

Versus

IL Palazzo Co-Op. Hsg Soc. Ltd.

..Respondent

Mr. N. N. Bhadrashete i/b. Priyanka N. Bhadrashete for Petitioner.
Mr. Shadab Jain Counsel a/w. Priya Diwadkar i/b. Manilal Kher
Ambalal & Co. for Respondent.

CORAM : AMIT BORKAR, J.

DATE : 11 NOVEMBER 2025

PC :

1. The petitioner challenges the order of the Co operative Appellate Court dated 13 February 2024. By that order, the Appellate Court set aside the Judgment dated 30 October 2023 passed by the Co operative Court No.2, Mumbai in M.A. No. 6 of 2022. The matter therefore turns upon the legality of the condonation of delay granted by the Trial Court.

2. In M.A. No. 6 of 2022, the petitioner sought condonation of delay of 2055 days. The petitioner claimed that the said delay required condonation to enable him to seek refund of Rs.2,32,44,997. The relief claimed was specific. The only issue before the Court was whether the delay stood explained by sufficient cause within the meaning of Section 5 of the Limitation

Act.

3. The record shows that the entire amount in question was paid on 27 April 2010. The petitioner filed the dispute on 21 January 2022. The delay is therefore long. It is more than eleven years. The law requires the applicant to explain each day of delay with clarity. The explanation must show reasonable diligence.

4. The petitioner explains the delay by stating that he was involved in several litigations before the office of the Registrar and the Appellate Authority. He claims that he proceeded under a bona fide belief that those authorities would grant him relief. According to him, only after the conclusion of those proceedings did he realise that such authorities lacked jurisdiction. The petitioner states that he then approached the Co operative Court.

5. The Trial Court accepted this explanation. It held that the petitioner was pursuing his grievance in good faith before another forum. The Trial Court concluded that the cause shown amounted to sufficient cause and condoned the delay.

6. The Appellate Court, on a detailed examination, took a different view. The Appellate Court held that the petitioner did not act with reasonable diligence. The petitioner allowed the matter to remain unattended for more than five years. He produced no material showing that he pursued any steps for recovery of the money during that period. Mere pendency of some other proceedings does not stop the clock of limitation. The law places a

duty upon every litigant to act with vigilance. A litigant cannot assume that running around different forums without clear pleadings or reliefs would suspend limitation. The Appellate Court therefore refused to condone the delay.

7. Having examined the explanation offered by the petitioner and the findings of both Courts, I find no error in the reasoning of the Co operative Appellate Court. The petitioner has not demonstrated sufficient cause within the meaning of Section 5 of the Limitation Act. The explanation is general. It lacks particulars. Assertions that he was pursuing other proceedings are not enough. The petitioner has not shown any material to justify his inaction for more than five years.

8. The refusal to condone the delay results only in rejection of the prayer for refund of Rs.2,32,44,997. Therefore, while upholding the order of the Co operative Appellate Court, it is clarified that the Co operative Court shall register the dispute and decide the remaining prayers in accordance with law.

9. With this clarification the petition stands disposed of.

(AMIT BORKAR, J.)