IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 6532 OF 2025
IN
FIRST APPEAL (St.) NO. 6559 OF 2025

M/s. Mittal Co-owners and Another. ...Applicants.

In the matter between :
M/s. Mittal Co-owners and Another. ...Appellants.
Versus
Municipal Corporation of Greater Mumbai and Others. ...Respondents.

Mr. Nandu Wadikar and Parth Katira i/b Nandu Pawar for the Appellant.
Ms. Vidya Vyavhare for the Respondent-Corporation.

Coram : Sharmila U. Deshmukh, J.
Date : April 21, 2025.

P. C. :

1. Interim Application has been filed seeking condonation of delay of 468 days caused in preferring the Appeal.

2. Learned Counsel appearing for the Applicants submits that by the impugned order, ratable value was fixed against the Respondent No.3-Society of which the Applicants are members and as the Respondent No.3 is not desirous of challenging the impugned order, the Respondent No.3 by communication dated 3rd December 2024 gave its no objection to the members to challenge the impugned order before this Court. He submits that as the Respondent No. 3 was neither challenging the impugned order nor was granting any permission to the Applicant members to challenge the same individually, delay has occurred. He submits that the tax which was charged to each unit holder has been paid by the unit holders and therefore the unit holders are aggrieved. He submits that there is sufficient explanation for the delay of 268 days.

3. *Per contra* learned Counsel appearing for the Respondent No. 1 and 2 – Corporation submits that there is no sufficient explanation for the delay of 468 days. She submits that Respondent No.3-Society though aware of the order, did not challenge the same and the present Applicant cannot take advantage of the said fact and put forth the said ground as an explanation for delay. She submits that as the Application does not set out sufficient explanation, delay should not be condoned.

4. I have considered the submissions.

5. The fact remains that the Applicants who are members of the Respondent No.3-Society have been imposed with the obligation of paying the property tax. There was challenge to the ratable value fixed by the Respondent-Corporation which was ultimately passed on to the individual members of Respondent No.3-Society who are aggrieved by the fixation of ratable value. As the municipal appeal filed by the

Respondent No.3 has been dismissed, it was the duty of the Respondent No. 3 to carry the same in Appeal. However, the Respondent No.3 was not desirous of challenging the said order. It was thus left to the present Applicants to take necessary steps to challenge the impugned order.

6. There is specific pleading that letter dated 3rd December 2024 was issued by Respondent No.3 giving its no objection for filing of Appeal after much persuasion by individual members. As the individual members were not party to the trial Court proceedings, there was delay in filing the present Appeal, as after obtaining permission, necessary steps have to be taken and the papers and proceedings had to be collected for filing Appeal.

7. Application sets out the sufficient explanation for delay of 468 days. Perusal of the said Application does not indicate any negligence or inaction on the part of Applicants in pursuing their remedies. On the contrary, the Applicants were diligent enough to persuade the Respondent No.3 to give their no objection for the purpose of filing Appeal. There is, thus, sufficient explanation for the delay of 46 days which stands condoned.

[Sharmila U. Deshmukh, J.]