



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 3183 of 2025

[Pushpakunja Co-operative Housing Society Ltd., Yavatmal through
its Secretary, Shri M. H. Gulhane ..vs.. The Divisional Joint Registrar,
Co-operative Societies, Amravati and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Vishal Anand, Advocate for the petitioner
Mr. A. G. Mate, AGP for the State

CORAM : ANIL L. PANSARE J.

DATED : 23-06-2025

Heard.

2. The order impugned is dated 15-1-2019. When asked as to why the petitioner remained silent for six years, learned counsel for the petitioner cannot assign any reason. Thus, apparently, the petition suffers from delay and laches.

3. The Supreme Court in the case of ***Mrinmoy Maity Vs. Chhanda Koley and ors. [AIR 2024SC2717]*** held as under :-

“11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be non-suited. If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court. This Court in the

case of *Tridip Kumar Dingal and Ors. v. State of W.B. and ors.*, (2009) 1 SCC 768 has held to the following effect:

56. We are unable to uphold the contention. It is no doubt true that there can be no waiver of fundamental right. But while exercising discretionary jurisdiction under Articles 32, 226, 227 or 136 of the Constitution, this Court takes into account certain factors and one of such considerations is delay and laches on the part of the applicant in approaching a writ court. It is well settled that power to issue a writ is discretionary. One of the grounds for refusing reliefs under Article 32 or 226 of the Constitution is that the petitioner is guilty of delay and laches.

57. If the petitioner wants to invoke jurisdiction of a writ court, he should come to the Court at the earliest reasonably possible opportunity. Inordinate delay in making the motion for a writ will indeed be a good ground for refusing to exercise such discretionary jurisdiction. The underlying object of this principle is not to encourage agitation of stale claims and exhume matters which have already been disposed of or settled or where the rights of third parties have accrued in the meantime (vide *State of M.P. v. Bhailal Bhai* [AIR 1964 SC 1006 : (1964) 6 SCR 261], *Moon Mills Ltd. v. Industrial Court* [AIR 1967 SC 1450] and *Bhoop Singh v. Union of India* [(1992) 3 SCC 136 : (1992) 21 ATC 675 : (1992) 2 SCR 969]). This principle applies even in case of an infringement of fundamental right (vide *Tilokchand Motichand v. H. B. Munshi* [(1969) 1 SCC 110], *Durga Prashad v. Chief Controller of Imports and Exports* [(1969) 1 SCC 185] and *Rabindranath Bose v. Union of India* [(1970) 1 SCC 84]).

58. There is no upper limit and there is no lower limit as to when a person can approach a court. The question is one of discretion and has to be decided on the basis of facts before the court depending on and varying from case to case. It will depend upon what the breach of fundamental right and the remedy claimed are and when and how the delay arose.”

4. Thus, while exercising discretionary jurisdiction under Articles 226 and 227 of the Constitution, the Court cannot ignore an unexplained inordinate delay and one of the grounds for refusing relief is whether petitioner is guilty of delay and laches. In the present case, the petitioner has not

even made attempt to justify delay. In that view of the matter, the petition is dismissed on account of delay and laches.

(Anil L. Pansare, J.)

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