



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.755 OF 2026**

Ramkuber Mahavir Singh	...	Petitioner
versus		
The Maharashtra Housing and Area Development Authority and Ors.	...	Respondents

Mr. Bhavin Gada with Mr. Deepak Shukla, Mr. Praveen Maurya i/by BNS
Legal for Petitioner.
Mr. Satyajeet Dighe, for Respondent No.1.
Mr. Santosh Mali, for Respondent – BMC.

CORAM: N.J.JAMADAR, J.

DATE : 20 JANUARY 2026

ORAL ORDER :

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 30 September 2025 passed by the learned Judge, City Civil Court in Notice of Motion No.2588 of 2015, which has been filed for condonation of delay of 12 years to move the Notice of Motion to set aside judgment and decree passed on 25 March 2003 in Suit No.1994 of 2000.
3. After hearing the learned Counsel for the parties, the learned Judge found that, in the circumstances of the case, the recording of evidence would be necessary for the determination of the prayer in the Notice of Motion. Thus, the learned Judge, City Civil Court has directed the parties to lead evidence.

4. Learned Counsel for the Petitioner submitted that, having regard to the stand taken by the Respondents – Applicants in the Notice of Motion, the reasons assigned by the Respondents for condonation of huge delay of 12 years in filing the Notice of Motion to set aside the decree passed in Suit No.1994 of 2000 is clearly unsustainable. In such circumstances, the learned Judge could not have directed the parties to lead evidence as it would entail further delay.

5. It is not a case that the Respondents sought time to adduce evidence. It is the learned Judge who has recorded a view that the evidence is necessary to decide the prayer in the Notice of Motion. In view of the provisions of Section 141 of the Code of Civil Procedure, 1908, the procedure provided in the Code in regard to suits shall be followed, as far as it can be made applicable, in the miscellaneous proceedings. Thus, neither there is jurisdictional error or procedural defect in directing the parties to lead evidence. When the Court considers it appropriate to direct the parties to lead evidence to arrive at a just decision of the case, such an order does not warrant interference in exercise of the supervisory jurisdiction.

6. The concern of the Petitioner about the delay in the disposal of the proceeding, can be taken care of by directing the learned Judge, City Civil Court to decide the Notice of Motion within a time frame.

7. The Writ Petition, thus, stands disposed with a request to the learned

Judge, City Civil Court, to decide the Notice of Motion by recording the evidence only on the aspect of the sufficiency of the cause for the condonation of delay, as expeditiously as possible, and, preferably, within a period of four months from the date of communication of this order.

(N.J.JAMADAR, J.)