

SAYALI
DEEPAK
UPASANI

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12613 OF 2025

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Suresh Kamalkant Upadhyay and Others ... Petitioners
V/s.
The State of Maharashtra and Others ... Respondents

Mr. Rakeshkumar R. Tiwari, for Petitioners.

Mr. P. P. More, AGP for State-Respondent nos. 1 and 2.

Mr. D. P. Desai, for Respondent no. 3

Mr. D. R. Kawale, for Respondent no. 5 BMC.

Mr. Yash Momaya with K. Kakkal i/b Jayesh Vyas, for
Respondent no. 6

CORAM : AMIT BORKAR, J.

DATED : MARCH 23, 2026

P.C.:

1. The present matter comes before this Court as a challenge to an order dated 06th December, 2013, passed by the competent authority under the provisions of Section 11 of the MOFA Act. By the said order, a certificate has been issued in favour of an organization of flat purchasers. These purchasers had entered into agreements under Section 4 of the MOFA Act, and on that basis, they claimed their rights. In simple words, the authority recognized the body of flat buyers and granted them certain legal standing in relation to the property. This order has been questioned in the present petition.

2. The petition, however, is filed much later, on 02nd August, 2025, by persons who say they are legal representatives of the original owners. At this stage, what becomes important is the long delay. There is a gap of almost 12 years between the date of the impugned order and the filing of this petition. In the entire memo of the petition, there is no proper explanation given for this delay. The record also shows that the original owners had in fact participated in the earlier proceedings. They had filed their reply before the authority. The written statement filed on their behalf is also annexed to the petition. This clearly indicates that the owners were aware of the proceedings at the relevant time and had taken part in them.

3. The petitioner has tried to explain this delay by referring to the contents of paragraph 20 of the petition. It is stated there that the impugned order was passed without following proper procedure. It is also said that sufficient opportunity was not given to place relevant documents on record. According to the petitioner, this itself should be treated as a reason for approaching the Court after such a long time.

4. This Court is unable to accept such an explanation. A mere allegation that proper procedure was not followed, or that opportunity was not granted, cannot by itself justify a delay of more than 12 years. If the petitioners or their predecessors were aggrieved by the manner in which the authority conducted the proceedings, they ought to have taken steps within a reasonable

time. The further allegation that the developer carried out construction in excess of the authority granted under the development agreement also does not help in explaining the delay. That issue, even if assumed to be correct, was available to be raised at the relevant time itself. It does not explain why the petitioners remained silent for such a long period.

5. In fact, the material on record shows the opposite of what is now suggested. The owners had knowledge of the proceedings and had actively contested them. Therefore, it cannot be accepted that they were unaware of the order or its consequences. Once it is found that the petitioners have failed to give any satisfactory explanation for the long delay, this Court cannot proceed to examine the case on merits. The law is clear that unexplained laches are sufficient to refuse relief under writ jurisdiction.

6. For these reasons, the petition is liable to be dismissed on the ground of delay and laches alone. However, it is clarified that if the law otherwise permits, the petitioners are free to avail such other remedies as may be open to them, including the institution of a civil suit, if so advised.

7. Accordingly, the petition stands dismissed. No further orders are required.

(AMIT BORKAR, J.)