

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3936 OF 2025

Prakash Tavji Lad

... Petitioner

V/s.

The State of Maharashtra through
Government Pleader & Ors.

... Respondents

Mr. A. N. Giri, with Mr. Sagar Batavia, for the Petitioner.

Ms. Manisha Gawde, AGP, for the Respondent nos. 1 to 3-State.

CORAM : FARHAN P DUBASH, J.

DATE : 17th MARCH 2026

ORDER.:

1. Rule. Rule made returnable forthwith. By consent of parties the matter is taken up for final disposal today.
2. The present Writ Petition challenges an order dated 30th April 2025 passed by Grievance Redressal Committee - Respondent no. 2 herein in Appeal No. 227 of 2024 and an earlier order dated 13th November 2024 passed by the Additional Collector and Appellate Authority - Respondent no. 3 herein in Appeal No. 467 of 2023.
3. A perusal of the record would reveal that Appeal No. 467 of 2023 came to be filed by Shivshakti Builders and Developers - Respondent

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no. 6 herein who sought to challenge an order dated 10th November 2020 passed by Deputy Collector – Competent Authority, Malad – 3. The said Appeal was belatedly filed only on 28th February 2023.

4. Considering this, the Petitioner herein raised preliminary objections seeking dismissal of the said Appeal including *inter alia* on the ground of maintainability by alleging that the same was filed by the Developer – Respondent no. 6 herein who is not an “aggrieved person” and therefore, not entitled to file the said Appeal and the other, and the more important ground for the purposes of the present Writ Petition, that the said Appeal was barred by the law of limitation since the same was preferred after more than 2 years from the passing of the order dated 10th November 2020 impugned therein and there was no application filed seeking condonation of delay.

5. After the matter was argued before Respondent no. 3, written submissions were also filed by the Petitioner. A perusal of the written submissions dated 4th November 2024 clearly reveal that the written submissions were made on the preliminary objections raised by the Petitioner on the maintainability of the Appeal. In the said written submissions also, the Petitioner has expressly raised both the points that are adverted to hereinabove, including the point of the Appeal being barred by limitation.

6. Notwithstanding this express ground being raised by the

Petitioner, Respondent no. 3 appears to have proceeded to pass the impugned order dated 13th November 2024. In the bargain, he has failed to adjudicate upon and decide the preliminary objections raised by the Petitioner herein inasmuch as, in the said order, there is no reference whatsoever to the plea of limitation that was raised by the Petitioner. Instead, Respondent no. 3 has proceeded to decide the matter on merits and passed the impugned order dated 13th November 2024.

7. Being aggrieved by this order, the Petitioner preferred an Appeal before the Grievance Redressal Committee - Respondent no. 2 herein being Appeal number DESK/SLUM – 227 of 2024 in which the Petitioner has once again taken the said grounds of defence which include the plea of limitation. Even before Respondent no. 2, the Petitioner filed written submissions dated 3rd April 2025 in which the said grounds of defence have been specifically raised by him. Notwithstanding this, Respondent no. 2 has also proceeded to pass the impugned order dated 30th April 2025, and decided the matter on merits without applying its mind and dealing with the issue of limitation and maintainability that were squarely raised by the Petitioner. There is no discussion on and/or adjudication of the plea of limitation and maintainability raised by the Petitioner or the fact that no condonation of delay application was preferred by the Developer – Respondent no. 6 herein before Respondent no. 3. Despite this, Respondent no. 2 has rejected the said

Appeal without recording any finding on the said issues specifically raised by the Petitioner.

8. Mr. A N. Giri, learned counsel who appears on behalf of the Petitioner is at pains to point out that both the impugned orders have been passed by Respondent nos. 2 and 3, without considering the said grounds of defence raised by him. My attention is invited to an order passed by the Supreme Court of India in the case of ***State of West Bengal & Ors. Vs. Somdeb Bandyopadhyay & Ors.***¹ in which the Hon'ble Supreme Court has deprecated the practice of matters being heard and decided on merits, when there is delay in filing the application and without such delay first being considered and condoned.

9. After hearing the parties and going through the record, from a bare perusal of the two impugned orders dated 30th April 2025 and 13th November 2024, it is evident that the same do not deal with and/or consider the issue of limitation and maintainability that have been squarely raised by the Petitioner herein before, Respondent nos. 2 and 3. More so, from the record that is filed before this Court, it appears that no application for condonation of delay in preferring the Appeal before Respondent no. 3 was ever filed by the Developer – Respondent no. 6 herein. In these circumstances, without deciding such vital issues which go to the root of the matter, and touches the very maintainability of the Appeal, Respondent nos.

1 (2009) 2 SCC 694

2 and 3 ought not to have ignored the same and instead proceeded to decide the matter on merits without recording any finding thereon. The decision of the Apex Court in **Somdeb Bandyopadhyay** (*supra*) would also squarely apply to the facts of the present case.

10. Considering this, the Writ Petition is required to be allowed and the following order is accordingly passed:

::ORDER::

(i) The impugned order dated 30th April 2025 passed by Grievance Redressal Committee - Respondent no. 2 in Appeal No. 227 of 2024 and order dated 13th November 2024 passed by the Additional Collector and the Appellate Authority in Appeal No. 467 of 2023 are both, hereby quashed and set aside

(ii) Appeal No. 467 of 2023 is remanded back to Respondent no. 3 who shall hear and decide the same afresh on the basis of the record before it including the written submissions dated 4th October 2024 filed by the Petitioner herein.

(iii) Notice of hearing shall be afforded to the Petitioner and he shall also be heard before Respondent no. 3 passes any order thereon. The said Appeal shall be heard and disposed of by the Respondent no. 3 as expeditiously as possible and in any event

before 30th April 2026.

(iv) Present Writ Petition is disposed of in terms of the above order with no order as to costs.

(FARHAN P. DUBASH, J.)

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