

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7351 OF 2024
(Arising out of S.L.P.(Civil) No.14317 of 2024)

USHIRBHAI MADHUSUDAN MASHRUWALA & ORS. ... APPELLANT(S)

VS.

PATIDAR COOPERATIVE HOUSING SOCIETY
LIMITED & ORS. ... RESPONDENT(S)

O R D E R

Issue notice confined to consideration of question of condonation of delay in preferring an appeal before the Appellate Authority, as the High Court had found that the statutory appeal was the efficacious remedy to challenge the amendment to the bye-laws.

The learned counsel for the first respondent accepts notice and waives formal notice of service. Considering the facts of the case, notice to the other respondents is dispensed with.

Leave granted.

Heard the learned senior counsel appearing for the appellants and the learned senior counsel appearing for the first respondent.

After having heard the learned senior counsel, the only appropriate order which can be passed is of condoning the delay as prayed for in Miscellaneous

Application No.42 of 2016 in appeal bearing Sr.No.SCC/01/C-Appeal/225/2018 filed before the Additional Registrar (Appeal) Cooperative Associations Societies, Ministry of Cooperation, State of Gujarat. The reason is that the issue of the legality of the amendment to the bye-laws will have to be decided by the Appellate Authority.

We accordingly direct that the delay in preferring Sr.No.SCC/01/C-Appeal/225/2018 stands condoned and we direct the Appellate Authority to hear the appeal. We direct the appellant and the first respondent to appear before the Appellate Authority on Monday, the 22nd July, 2024 at 10.30 a.m. The Appellate Authority will decide the Appeal as expeditiously as possible.

Needless to add that both the appellants and the first respondent will not seek adjournments on unreasonable grounds. The interim relief which was operative during the pendency of the Writ Petition before the High Court will continue to operate till the disposal of the Appeal. If the final order in Appeal be adverse to the appellants, the same interim order shall continue to operate for a period of four weeks from the date of service of the order of the Appellate Authority on the appellants.

We make it clear that the Appellate Authority will hear the Appeal independently of the observations made in the impugned judgment and on its own merits.

It is also made clear that the Appellate Authority shall not be influenced by the order dated 17th February, 2023 passed by the Deputy Secretary (Appeal) in Revision Application No.98 of 2018.

The appeal is accordingly partly allowed on the above terms.

We leave open all the contentions of the parties which will be decided by the Appellate Authority.

.....J.
(ABHAY S.OKA)

.....J.
(AUGUSTINE GEORGE MASIH)

NEW DELHI;
July 11, 2024.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 14317/2024

(Arising out of impugned final judgment and order dated 13-06-2024 in SCA No. 13434/2023 passed by the High Court of Gujarat at Ahmedabad)

USHIRBHAI MADHUSUDAN MASHRUWALA & ORS.

Petitioner(s)

VERSUS

PATIDAR COOPERATIVE HOUSING SOCIETY LIMITED & ORS. Respondent(s)

(FOR ADMISSION and I.R. and IA No.144611/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.144612/2024-EXEMPTION FROM FILING O.T.)

WITH SLP(C) No. 14693/2024

(IA No.146509/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.146511/2024-EXEMPTION FROM FILING O.T.)

SLP(C) No. 14708/2024

(IA No.146530/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.146531/2024-EXEMPTION FROM FILING O.T.)

Date : 11-07-2024 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA

HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Petitioner(s)

Mr. Huzefa Ahmadi, Sr. Adv.

Mr. Shamik Shirishbhai Sanjanwala, AOR

Mr. Kunal Vyas, Adv.

Mr. Prabhakar Yadav, Adv.

For Respondent(s)

Mr. Harin P.Raval, Sr. Adv.

Mr. Anando Mukherjee, AOR

Mr. Chintan Champaneri, Adv.

Mr. Shwetank Singh, Adv.

Ms. Shreya Bansal, Adv.

Ms. Shrestha Narayan, Adv.

Ms. Urmi H. Bansal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

SLP(Civil)No.14317 of 2024

Leave granted.

The appeal is partly allowed in terms of the signed order.

Pending applications also stand disposed of.

SLP(Civil)Nos.14693 and 14708 of 2024

In view of the order passed in Civil Appeal arising out of SLP(Civil)No.14317 of 2024 where we have kept the issue of legality and validity of the amendment to the bye-laws open to be tested in Appeal, no further order is required to be passed in these Special Leave Petitions and the same are accordingly disposed of.

Pending applications also stand disposed of.

(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER

(Signed order in C.A. @ SLP(C)No.14317/2024 is placed on the file.)