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

**WRIT PETITION NO. 3274 OF 2025
ALONGWITH
INTERIM APPLICATION (L) NO. 7585 OF 2026
IN
WRIT PETITION NO. 3274 OF 2025**

Swayam Realtors & Traders LLP
a limited liability partnership firm
registered under the Limited
Liability Partnership Act, 2008,
formerly known as Swayam
Realtors & Traders Ltd., having
its registered office at
801, 8th Floor, Shikhar Complex,
Shrimali Society, Near Mithakhali
Six Road, Navrangpura, Ahmedabad,
Gujarat, India – 380 009.

... Petitioner

Versus

1. State of Maharashtra
Through its Government Pleader
Original Side, Mumbai – 400 001.
2. Inspector General of Registration
& Controller of Stamps,
Maharashtra State, Near New
Administrative Building,
Opp. Old Vidhan Bhavan,
Firoj Gandhi Chowk,
Pune – 411 001.
3. Deputy Inspector General of
Registration and Controller of
Stamps, Maharashtra State
having its office at Ground Floor,
Old Customs House, Fort,
Mumbai – 400 001.
4. Joint Sub-Registrar, Mumbai
City – I, having its office at



Ground Floor, Old Customs House,
Fort, Mumbai – 400 001.

5. Jt. Sub-Registrar, Borivali – II
MTNL Building. 1st Floor,
Behind Technical Hakoba Compound,
Borivali (East), Mumbai – 400 066.

6. Settlement Commissioner and
Director of Land Records
through its City Survey Officer,
Borivali, D.N.R. Karode Marg,
Natakwala Lane, S.V. Road,
Borivali (West), Mumbai – 400 093.

7. City Survey Officer, Borivali
D.N.R. Karode Marg,
Natakwala Lane, S.V. Road,
Borivali (West), Mumbai – 400 093.

8. Talathi, Borivali
D.N.R. Karode Marg,
Natakwala Lane, S.V. Road,
Borivali (West), Mumbai – 400 093.

9. Khatau Makanji Spinning &
Weaving Mills Limited,
a company registered under the
provisions of the Companies Act, 1956
having its registered office at
Laxmi Building, 6 Shoorji Vallabhdas
Marg, Ballard Estate,
Mumbai – 400 038.

... Respondents

Mr. Fredun DeVitre, Senior Advocate a/w Mr. Ajay Khattawala,
Mr.Karan Rukhana, Mr.Nirav Shah, Mr. Anuj Jaiswal and Ms. Niharika
Singh i/b Little and Co. for the Petitioner.

Mr. Jay Sanklecha, B - Panel Counsel a/w Mr. Prashant Kamble, AGP
for Respondent Nos. 1 to 8 – State of Maharashtra.



**CORAM : RAVINDRA V. GHUGE AND
HITEN S. VENEGAVKAR, JJ.**

**RESERVED ON : 17th APRIL, 2026
PRONOUNCED ON : 6th MAY, 2026**

JUDGMENT (PER HITEN S. VENEGAVKAR, J.) :

1. Rule. Rule is made returnable forthwith. By consent of learned Counsel appearing for the parties, the Petition is taken up for final disposal.

2. At the outset, we take on record the statement made on behalf of the Petitioner that the relief concerning mutation is not pressed at this stage, with liberty reserved. We also record that the correct date of the BIFR sanction order is 26th February, 2007 as mentioned by the Petitioner in separate note of statement and verified from the records.

3. The present Petition under Article 226 of the Constitution of India seeks, inter alia, a Writ of Mandamus directing the Respondent authorities to register, under the provisions of the Registration Act, 1908, the orders dated 26th February, 2007 and 3rd January, 2013 passed by the Board for Industrial and Financial Reconstruction (BIFR) in Case No. 135 of 1989, whereby, pursuant to a sanctioned scheme of revival-cum-demergence under the Sick Industrial Companies (Special Provisions) Act, 1985, (*“the SICA Act”*) the immovable properties of Respondent No. 9



stood transferred to and vested in the Petitioner with effect from 1st April, 2006. Consequential directions were also sought for registration of the declaration-cum-indemnity dated 28th November, 2024 and for mutation of revenue records reflecting the Petitioner's title. Of which now on the basis of the statement made before us as recorded above by the Petitioner, this prayer pertaining to mutation of the Petitioner's name in the Revenue Records does not survive.

4. It is submitted that the Petitioner, originally incorporated as a company under the Companies Act, 1956 and subsequently converted into a limited liability partnership under the Limited Liability Partnership Act, 2008, has at all material times acted bonafide and diligently. It was emphasized that the rights of the Petitioner in respect of the subject properties do not emanate from any voluntary instrument but arise by operation of law, pursuant to a statutory scheme sanctioned by BIFR, which has attained finality. The transfer and vesting of the properties, it was submitted, stood completed upon sanction of the scheme, and the requirement of registration is merely consequential to reflect such vesting in public records.

5. Tracing the chronology, the learned Senior Counsel on behalf of the Petitioner submitted that Respondent No. 9, being a sick



industrial company, had approached BIFR under the SICA Act, and by its order dated 26th February, 2007, a scheme of revival-cum-demerger was sanctioned. Under the said scheme, the subject immovable properties stood transferred to the Petitioner with retrospective effect from 1st April, 2006. Clause 11.1(d)(e) of the scheme specifically obligated the State of Maharashtra to treat such demerger at par with reconstruction under Section 394 of the Companies Act, 1956 for stamp duty purposes and to give effect to the transfer. However, despite binding directions, the State authorities failed to act in compliance, compelling the Petitioner to initiate further proceedings before BIFR, resulting in the order dated 3rd January, 2013 reiterating and enforcing the obligation upon the State authorities to compute and recover stamp duty in accordance with the scheme and to register the properties.

6. The Petitioner and its counsel further submitted that instead of complying with the binding BIFR directions, the stamp authorities acted contrary thereto by raising exorbitant and untenable demands of stamp duty and penalty, culminating in an adjudication order dated 18th December 2015. The Petitioner, it was urged, was constrained to challenge such illegal demands through multiple proceedings, including Writ Petitions before this Court and statutory appeals under the Maharashtra Stamp Act, 1958. Ultimately, the Chief Controlling



Revenue Authority, by its order dated 8th July, 2024, allowed the Petitioner's Appeal and set aside the earlier adjudication, and conclusively determined that only nominal stamp duty of Rs. 100/- was payable. The Petitioner promptly complied with the said order and paid the requisite Stamp duty on 17th July, 2024, whereupon the certificate under Section 32 of the Stamp Act was issued on 2nd August, 2024.

7. On the strength of this adjudication, it was submitted that the Petitioner immediately approached the registering authorities on 22nd August, 2024 with the duly stamped documents for registration. However, the authorities refused to accept the same on the ground that the presentation was beyond the time prescribed under Section 23 of the Registration Act. The learned Senior Counsel characterised such refusal as ex facie illegal, arbitrary, and contrary to settled legal principles. It was argued that the Petitioner could not have presented the document for registration prior to adjudication and payment of proper stamp duty, as the statutory scheme under the Stamp Act mandates that an instrument must be duly stamped before it can be acted upon or registered. Therefore, according to the Petitioner, the period of limitation for presentation could only commence upon completion of the adjudication proceedings and certification of stamp duty.



8. The learned Senior Counsel further submitted that it is well settled, through a consistent line of authorities of this Court, that the time consumed in adjudication of stamp duty is liable to be excluded while computing the period under Sections 23 and Section 25 of the Registration Act. Reliance was placed upon decisions such as:-

1. Nestor Builders and Developers Pvt. Ltd. vs. State of Maharashtra.
2. Snehanjali Electronics and Trading Pvt. Ltd. vs. Inspector of General of Registration and Controller of Stamps and Ors.
3. Purnima Bhanuprasad Gohil vs. State of Maharashtra.
4. Vijay Laxmi Ravi Kumar vs. Revenue Control Authority of Bombay High court.

9. In support of the contention that where delay is occasioned by pendency of adjudication before stamp authorities, such period must be excluded, and the document, if presented within four months thereafter, must be accepted for registration. Applying these principles, the learned Senior Counsel submitted that in the present case, the adjudication proceedings commenced as early as June 2007 and were concluded only on 8th July, 2024, with the issuance of the certificate on 2nd August, 2024. The entire period between 2007 and 2024, being attributable to the inaction and unlawful conduct of the State authorities,



is liable to be excluded. Once this principle is applied and limitation is computed thus, then the presentation of the document on 22nd August, 2024 and thereafter within four months is squarely within limitation. It was emphasized that the Petitioner has acted with due diligence throughout, and the delay, if any, is wholly attributable to the Respondent authorities, and they cannot be permitted to take advantage of their own wrong.

10. The learned Senior Counsel while dealing with the Respondents' contention raised in the affidavit in reply, regarding the 2015 adjudication order and the delay in challenging the same, it is submitted that the said order stood merged in the appellate order dated 8th July, 2024 under the doctrine of merger, as recognised in ***Omprakash Verma and Others vs. State of Andhra Pradesh and Others***¹, and therefore ceased to have independent existence. It was further contended that the Respondents themselves had prolonged the dispute by challenging the BIFR directions before appellate forums, the proceedings which culminated only in 2018, and even thereafter, they failed to act in compliance, thereby contributing substantially to the delay.

11. It was then urged before us that the impugned action of the

1 (2010) 13 Supreme Court Cases 158



registering authorities is violative of Article 14 of the Constitution, being arbitrary, unreasonable, and contrary to statutory mandate. The object of the Registration Act, is mainly to ensure certainty and transparency in transactions relating to immovable property and if the Respondent authorities are permitted to act arbitrarily and deny the Registration of the document of the Petitioner then the very object of the Registration Act would be defeated inspite of the cases where the title is undisputed and has vested by operation of law. It was submitted that the authorities have failed to discharge their statutory duties and have acted in defiance of binding orders passed by BIFR, which continue to operate and bind the parties.

12. In conclusion, the learned Senior Counsel submitted that the petitioner has established a complete and satisfactory explanation for the entire period in question, and there is neither negligence nor lack of bona fides on its part. The delay, if any, stands fully accounted for and is liable to be excluded in law. It was therefore prayed that this Court, in exercise of its writ jurisdiction, be pleased to direct the Respondent authorities to accept and register the BIFR orders along with the declaration-cum-indemnity and to grant consequential reliefs, as sought in the Petition.



13. The learned Advocate appearing on behalf of the Respondent authorities, advanced detailed submissions, both oral and written, opposing the reliefs sought by the Petitioner. At the outset, it was contended that Part IV of the Registration Act, 1908 specifically governs the aspect of “time of presentation” of documents for registration. Reliance was placed upon Sections 23 and Section 25 of the said enactment to submit that the statutory scheme is clear and mandatory in nature. It was urged that every document required to be registered must ordinarily be presented before the competent registering authority within a period of four months from the date of its execution. The statute, in limited circumstances such as urgent necessity or unavoidable accident, permits an extension of a further four months, subject to payment of the prescribed fine. However, beyond this aggregate outer limit of eight months, the statute does not contemplate or confer any power upon the registering authority to accept a document for registration. It was thus emphatically submitted that the legislative intent makes no scope for discretion beyond the prescribed time limit boundary.

14. In support of the above proposition, reliance was placed upon the decision in *Atul Projects Pvt Ltd. vs. State of Maharashtra*²,

² Writ Petition (L) No.12995 of 2024.



particularly Paragraph Nos. 19 to 24 thereof, wherein the Court has reiterated the mandatory character of the limitation prescribed under the Registration Act. It was further submitted that the limitation period contemplated under the statute is with respect to the presentation of the document and not the Act of Registration per se. Once a document is validly presented within time, then its subsequent registration may occur at a later stage. For this proposition, reliance was placed on the judgment in *Shama Charan Das vs. Joyenoolah*³, wherein it is held that, upon proper presentation, the running of limitation ceases or stops.

15. The learned Counsel for the Respondents then addressed the Petitioner's contention that the document could not have been presented for registration in the absence of proper stamping. This submission was strongly refuted as being contrary to the statutory framework, particularly placing reliance on Rule 46 of the Maharashtra Stamp Rules, 1961. It was argued that the said rule explicitly provides the procedure to be followed where an insufficiently stamped document is presented for registration. In such a case, the registering officer is obliged to impound the document under the provisions of the Indian Stamp Act, 1899 or the Bombay Stamp Act, 1958, and thereafter follow the prescribed procedure, including making necessary endorsements under Rules 39

³ (1885) ILR 11 Cal 750



and 43 read with Section 58 of the Registration Act, before forwarding the document to the Collector for adjudication. It was emphasized that the statute does not prohibit presentation of an inadequately stamped document; rather, it provides a complete mechanism for its regularisation. Therefore, according to the Respondents, there was no legal impediment preventing the Petitioner from presenting the document within the prescribed period, and had such presentation been made, the limitation would have stood arrested.

16. The Respondents' Counsel further submitted that our Court, in catena of decisions, has carved out a limited exception to the rigid timelines prescribed under the Registration Act by excluding periods during which the delay is attributable to impossibility or to acts of the Court or statutory authorities. According to him this principle is founded upon well-settled maxims, namely *actus curiae neminem gravabit* and *lex non cogit ad impossibilia*. In Support of this contention, reliance was placed upon the following decisions :-

1. Nestor Builders and Developers Pvt. Ltd. vs. State of Maharashtra,
2. Kirti Mulani vs. State of Maharashtra,
3. Purnima Bhanuprasad Gohil vs. State of Maharashtra, and
4. Grand Centrum Realty LLP vs. State of Maharashtra.



17. Accordingly, the learned Counsel argued that such exclusion is permissible only to the extent of the actual period during which the matter remained pending before the competent authority for adjudication, and not beyond. Applying the above principles to the facts of the present case, the learned Counsel submitted that the BIFR order dated 11th January, 2007 was required to be presented for registration within the statutory period. Though an application for adjudication of stamp duty was filed on or about 13th June, 2007, the adjudication culminated in an order dated 18th December, 2015. He Further emphasized that the Petitioner admittedly did not challenge the said adjudication order for nearly nine years. The period between 2015 and 2024, during which no proceedings were pending before the stamp authorities, cannot be excluded for the purpose of computing limitation. The Petitioner's subsequent challenge to the adjudication order, initiated only in 2024, was characterised as belated, misconceived, and lacking in bonafides. It was further pointed out that even earlier proceedings initiated in 2019 did not assail the adjudication order, thereby demonstrating a clear lack of diligence on the part of the Petitioner. It was then contended that although the appellate authority ultimately set aside the adjudication order on 8th July, 2024, such condonation of delay in filing the Appeal does not create any legal fiction whereby the Appeal is deemed to have been filed within the original limitation period. The



effect of condonation, it was submitted, is merely to revive the remedy; it does not obliterate the intervening period of inaction nor render it non est in law. Consequently, there was, in fact, no adjudication proceeding pending between 18th December, 2015 and May 2024, and this entire period must be counted against the Petitioner.

18. The Respondents further disputed the Petitioner's assertion regarding the date of presentation of the document. It was submitted that the claim of the Petitioner about presentation on 22nd August, 2024 is not borne out by any contemporaneous record. On the contrary, the official inward register and token records maintained by the registering authority indicate that the document was presented only on 25th October, 2024. In the absence of cogent evidence to the contrary, the latter date must be accepted. Reliance in this regard was placed upon ***Snehanjali Electronics and Trading Pvt. Ltd. vs. Inspector of General of Registration and Controller of Stamps and Ors.***⁴ wherein the Court recognised the written application date as determinative of presentation.

19. In conclusion, the learned Advocate for the Respondents submitted that the Petitioner has been grossly negligent and has failed to pursue available remedies within the prescribed time. The delay in the

4 (2017) SCC Online Bom 6755 (DB)



present case is neither bonafide nor beyond the control of the Petitioner. It was urged that equitable considerations cannot override explicit statutory mandates. Reliance was placed upon the judgment of the Hon'ble Supreme Court in *Basawaraj & Anr. vs. Special Land Acquisition Officer*⁵, particularly Paragraph No.12, to submit that limitation provisions must be applied with full rigour, irrespective of hardship or inconvenience. It was thus contended that this Court lacks the jurisdiction to extend limitation on equitable grounds, and accordingly, the Writ Petition deserves to be dismissed.

20. Having considered the rival submissions and upon taking into consideration the factual aspect it is clear that the controversy must be resolved not merely on a literal application of statutory timelines, but on a principled synthesis of constitutional discipline, statutory hierarchy, and the jurisprudence governing period of limitation in such cases.

21. At the outset, we are of the opinion that the impugned action must firstly, withstand scrutiny under Article 14 of the Constitution of India. The discipline of non-arbitrariness is not a formal requirement but it is a substantive constitutional command. In *Kumari Shrilekha Vidyarthi and Others vs. State of Uttar Pradesh and Others*⁶,

5 (2013) 14 SCC 81

6 (1991) 1 SCC 212



the Hon'ble Supreme Court authoritatively held that every State action must be informed by reason and must eschew arbitrariness, the ratio being that arbitrariness is the very antithesis of equality. This principle was constitutionally deepened in the case of *Maneka Gandhi vs. Union of India and Another*⁷, where it was held that procedure established by law must be just, fair, and reasonable, and not arbitrary, fanciful or oppressive. Again the emerging principle is that statutory interpretation cannot be divorced from its consequences, particularly where those consequences are shaped by the conduct of the State itself. Viewed in this light of Constitution Principles, the refusal of registration in the present case cannot be assessed in isolation. The State, having failed to comply with binding statutory directions and having compelled the Petitioner to undergo prolonged adjudicatory processes, cannot subsequently permitted to invoke period of limitation as a bar for getting the document of the Petitioner registered in accordance with the Registration Act. To countenance such a position would be to legitimize State-induced prejudice which constitutional doctrine does not permit.

22. The principle that a party cannot take advantage of its own wrong is a foundational equitable doctrine which is equally applicable in public law along with Administrative Law. In *Union of India and*

⁷ (1978) 1 SCC 248



*Others vs. Major General Madan Lal Yadav (Retd.)*⁸, the Hon'ble Supreme Court thus has held that a party responsible for delay cannot rely upon that delay to defeat the rights of the opposite party. Thus, in clear terms the Hon'ble Apex Court has held that equity does not permit a litigant, particularly the State, to derive advantage from its own default. In the present case, the delay is not merely incidental but it is structurally attributable to the conduct of the State authorities themselves. The invocation of limitation in such circumstances is therefore legally untenable.

23. The second limb of analysis concerns the statutory framework under the Sick Industrial Companies (Special Provisions) Act, 1985. The Record admittedly indicates that the document in question is not ordinary instrument which is executed between two parties but an order passed by the competent tribunal BIFR under the Central Legislation thereby sanctioning the revival cum demerger scheme by which, the subject immovable properties stood transferred to the Petitioner with retrospective effect from 1st April, 2006. Once this is the factual position then Section 32 of SICA Act come in operation, which confers overriding effect upon a sanctioned scheme, notwithstanding anything inconsistent contained in any other law. In

8 (1996) 4 SCC 127



*Deputy Commercial Tax Officer and Others vs. Corromandal Pharmaceuticals and Others*⁹, the Hon'ble Supreme Court held that a sanctioned scheme prevails over all other enactments to the extent of inconsistency. This judgment clearly holds that the legislative intent underlying SICA is to ensure that revival mechanisms are not defeated by procedural or fiscal impediments. This principle was reaffirmed in *Raheja Universal Limited vs. NRC Limited and Others*¹⁰, wherein the Court held that a sanctioned scheme is binding on all stakeholders, including State authorities, and must be implemented in its entirety. The series of Dictums thus underscores the supremacy and binding force of such schemes. The consequence in the present case is therefore evident that once the scheme mandated vesting and directed the State to act in a particular manner, the authorities were under a statutory obligation to give effect to it. Their prolonged inaction of not registering the document for one or the other reason cannot dilute the legal efficacy of the scheme.

24. The third and determinative issue pertains to period of limitation under the Registration Act, 1908. Section 23 and Section 25 prescribe the period within which a document is required to be presented. Section 23 and Section 25 are reproduced as below :-

9 (1997) 10 SCC 649

10 (2012) 4 SCC 148



23. *Time for presenting documents:- Subject to the provisions contained in section 24, 25 and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution:*

Provided that a copy of a decree or order may be presented within four months from the day on which the decree or order was made, or, where it is applicable within four months from the day on which it becomes final.

23A. *Re-registration of certain documents:- Notwithstanding anything to the contrary contained in this Act, if in any case a document requiring registration has been accepted for registration by a Registrar or Sub-Registrar from a person not duly empowered to present the same, and has been registered, any person claiming under such document may, within four months from his first becoming aware that the registration of such document is invalid, present such document or cause the same to be presented, in accordance with the provisions of Part VI for re -registration in the office of the Registrar of the District in which the document was originally registered; and upon the Registrar being satisfied that the document was so accepted for registration from a person not duly empowered to present the same, he shall proceed to the re - registration of the document as if it had not been previously registered, and as if such presentation for re-registration was a presentation for registration made within the time allowed therefore under Part IV, and all the provisions of this Act, as to registration of documents, shall apply to such re-registration; and such document, if duly re-registered in accordance with the provisions of this section, shall be deemed to have been duly registered for all purposes from the date of its original registration:*



Provided that, within three months from the twelfth day of September 1917, any person claiming under a document to which this section applies may present the same or cause the same to be presented for re - registration in accordance with this section, whatever may have been the time when he first became aware that the registration of the document was invalid.

25. *Provision where delay in presentation is unavoidable:-*

(1) If, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration – fee, such document shall be accepted for registration.

(2) Any application for such direction may be lodged with a Sub-Registrar, who shall forth-with forward it to the Registrar to whom he is subordinate.

25. Before considering these two Sections it is necessary to consider the jurisprudence on the subject of period of limitation, which in our view has consistently evolved to recognise that limitation cannot be computed in abstraction from legal capability.

26. In ***Nestor Builders and Developers Pvt. Ltd. & Anr. vs. State of Maharashtra and Ors.***¹¹, a Division Bench of this Court held

¹¹ (2015) SCC Online Bom 3480 (DB)



that the period spent in adjudication of stamp duty must be excluded while computing limitation. Thus, this judgment clarifies that a document which is not duly stamped is incapable of lawful registration, and therefore limitation cannot run during a period when the law itself prohibits registration.

27. This principle was reiterated in *Snehanjali Electronics and Trading Private Limited* (supra), where it was held that delay attributable to statutory adjudication processes cannot prejudice the party seeking registration. This judgment emphasises that such time must necessarily be excluded.

28. The position has been restated with clarity in ***Purnima Bhanuprasad Gohil vs. State of Maharashtra and Others***¹², wherein it was held that limitation begins only when the document becomes capable of lawful registration, that is to say, upon completion of stamp adjudication. These decisions, when read together, establish that limitation under the Registration Act is not a rigid or mechanical computation of time, but must yield to the legal impossibility of registration. Therefore the legal maxim referred by the Respondent in his written submission “*lex non cogit ad impossibilia*” infact supports

12 (2024) SCC Online Bom 3185



the case of the Petitioner. The above doctrine was considered by the Hon'ble Supreme Court in case of *Shaikh Salim Haji Abdul Khayumsab vs Mr. Kumar & Ors.*¹³, wherein the Hon'ble Supreme Court recognised the applicability of this maxim by referring to the earlier judgments and held that the law does not compel a person performing an act which is impossible. Applying the said principle to the present case, the Petitioner cannot be penalised for not presenting the document through a period when, owing to pending stamp adjudication and the conduct of the statutory authorities due to which lawful registration was not practical or legal possible.

29. This principle when applied to the present case, where registration was legally impermissible pending adjudication, the law cannot penalise the Petitioner for not performing an act which could not have been lawfully done. Therefore, the submission of the Respondents that the Petitioner ought to have presented the document in an unstamped form cannot be accepted. While such a course may be permissible in a routine case, it cannot be elevated into a mandatory obligation in the present case particularly when the very basis of stamp liability was under contest and the State itself was asserting inconsistent positions. It has to be endorsed that judicial reasoning cannot compel procedural formalism

¹³ 2006 (1) SCC 46



at the cost of substantive justice. The reliance therefore placed by the learned Advocate for the Respondent on the judgment of *Basawaraj and Another* (supra), is therefore completely misplaced. In the Case of *Basawaraj and Another* (supra) it is held that delay attributable to negligence or inaction cannot be condoned. The present case stands on a fundamentally different footing, it is not a case of negligence or in-action on the part of the Petitioner but here is the case where the delay is institutional and State-induced. The doctrinal basis of *Basawaraj and Another* (supra) is therefore inapplicable.

30. One more argument of the Petitioner that requires consideration is the argument of Doctrine of merger, which further fortifies the Petitioner's case. While considering and applying this Doctrine in *Kunhayammed and Others vs. State of Kerala and Another*¹⁴, the Hon'ble Supreme Court held, that once an appellate authority passes an order, the original order merges into it and ceases to have independent existence. The ratio of this judgment is that the operative order is the appellate order. Consequently, the first adjudication order in the present case dated 18th December, 2015 must be regarded as having merged into the appellate order dated 8th July, 2024, and the document became legally capable of registration only

14 (2000) 6 SCC 359



thereafter. The contention of the Respondents Advocate that original adjudication order dated 18th July, 2015 was never challenged for almost nine years and hence that period cannot be excluded is completely misplaced for the reason that the order of final adjudication by the appellate Authority was delivered in July 2024 thereby setting aside the order dated 18th December, 2015 and hence the first adjudication order gets merged in the final adjudication order of Appellate authority.

31. Thus, when viewed cumulatively on all the above referred premises and legal positions, along with a factual chronology reveals a consistent pattern of diligence on the part of the Petitioner and corresponding inaction on the part of the State. The delay stands fully explained and is legally excludable. The refusal of registration is therefore not merely erroneous in law but also arbitrary in its effect.

32. Thus, in our considered view, the period under Section 23 and Section 25 of the Registration Act must be computed from the date on which the document became capable of lawful registration, namely upon final adjudication of stamp duty on 8th July, 2024 or, at the latest, upon issuance of the certificate on 2nd August, 2024. The presentation thereafter is clearly within limitation. Even otherwise, any marginal delay stands sufficiently explained in the facts of the present case.



33. Hence, we proceed to pass following Order :-

ORDER

(i) **The Writ Petition is allowed** in terms of prayer clauses (a) and (b), subject to the clarification recorded above.

(ii) Respondent Nos. 4 and 5, or the competent Registering authority, shall accept for registration the BIFR sanctioned scheme/order dated 26th February, 2007, the order dated 3rd January, 2013, and the declaration-cum-indemnity dated 28th November, 2024, along with all annexures required in law.

(iii) The Registering authority shall not refuse registration on the ground that the document is beyond the period prescribed under Section 23 and Section 25 of the Registration Act, 1908.

(iv) The time consumed in adjudication of stamp duty, connected proceedings before statutory authorities, and proceedings arising from the dispute regarding proper stamp duty shall stand excluded for the purpose of computing the period of presentation.

(v) The Registering authority shall complete the process of



registration in accordance with law within four weeks from the date the Petitioner presents the documents along with a copy of this order and complies with all procedural requirements.

(vi) The petitioner is granted liberty to adopt appropriate proceedings in accordance with law if the revenue authorities refuse mutation or decline to act upon the registered document.

(vii) **Rule is made absolute in the above terms.**

(viii) No order as to costs.

34. In view of disposal of the Petition, pending Interim Application would not survive and stands **disposed off**.

(HITEN S. VENEGAVKAR, J.)

(RAVINDRA V. GHUGE, J.)