

**BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL**

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**CM No. 1356 of 2023 in/and**

**Appeal No.539 of 2023**

**Date of Decision: March 10, 2025**

TDI Infrastructure Pvt. Ltd., Second Floor, Mahindra Tower,  
2A, Bhikaji Cama Place, New Delhi-110066

Appellant.

Versus

Raj Kumar, House No. 15 B Village Tajpur Thara Khurd,  
Sonipat, Haryana

Respondent

Present : Mr. Shubnit Hans, Advocate with  
Mr. Anjanpreet Singh, Advocate for the appellant.

Mr. Pankaj Rana, Advocate for the respondent.

**CORAM:**

**Justice Rajan Gupta**  
**Rakesh Manocha**

**Chairman**  
**Member (Technical)**  
(Joined through VC)

**ORDER:**

**RAJAN GUPTA, CHAIRMAN:**

The present appeal is directed against order dated 07.12.2021, passed by the Authority<sup>1</sup> whereby the appellant-promoter has been directed to pay upfront payment of Rs.19,30,607/- to the respondent for delay caused in offering possession within 90 days and further monthly interest @ Rs.22,068/- w.e.f. 07.12.2021 till the date a legally valid offer of possession is made. The appeal is accompanied by an application seeking condonation of delay of 622 days in filing thereof.

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<sup>1</sup> Haryana Real Estate Regulatory Authority, Panchkula

2. The impugned judgment is dated 07.12.2021. As per the appellant-company, the same was uploaded on 24.12.2021. The appellant contends that it came to know about the judgment in February, 2022 when its counsel was searching judgment in another case. The counsel then shared the order dated 07.12.2021 with the concerned official of the Company. After perusal of the order, authorised representative contacted higher officials of the company and contacted the Advocate in June, 2022. The counsel advised the appellant to file appeal before this Tribunal. Further delay occurred on account of holidays in the month of June, 2022. The appellant-company took further time to finalise and go ahead with the decision to file appeal. Besides, the Company has been facing financial crunch. Thus, pre-deposit amount also could not be arranged in time. For all the above reasons including paucity of administrative, accounting and legal staff, the delay in filing occurred. Besides, during COVID-19 outbreak, the work of the Company came to a stand still. Rectification application was filed and the same was dismissed on 24.01.2023 which was uploaded on 10.02.2023. Subsequently, the company changed its counsel for better and able assistance (paragraph No. 12). Thereafter, the present appeal was finalised and filed before this Tribunal.

3. In reply to the application seeking condonation of delay, the respondent alleged that the delay is intentional so as to prolong culmination of execution proceedings pending before the Adjudicating Officer.

4. We have heard learned counsel for the parties and given careful thought to their respective contentions.

5. It is trite law that in case the grounds are so specious that sufficient cause for condoning the delay is not made out, such application has to be rejected. In a recent judgment of the Supreme Court in **Pathapati Subba Reddy (Died) by L.Rs. & Ors. V. The Special Deputy Collector (LA)**<sup>2</sup>, various principles governing condonation of delay have been culled out. Paragraph 26 thereof is reproduced hereunder:

*26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:*

- (i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself.*
- (ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;*
- (iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;*
- (iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;*
- (v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is*

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<sup>2</sup> SLP (Civil) No. 31248 of 2018, decided on 08.04.2024

*discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;*

*(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;*

*(vii) Merits of the case are not required to be considered in condoning the delay; and*

*(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay for the reason that the conditions have been imposed, tantamount to disregarding the statutory provision.”*

6. On a perusal of the principles laid down in the aforesaid judgment, it is evident that though a liberal, justice-oriented approach has to be adopted, it cannot be used to defeat the substantial law of limitation as contained in Section 3 of the Limitation Act. Every application has to be decided in the facts and circumstances of each case. A right or remedy which has not been exercised for a long time must come to an end or cease to exist after a fixed period of time.

7. In the instant case, the grounds given by the appellant-company for condoning the delay in filing appeal are not at all convincing. The appellant-company has merely given circuitous pleas in support of its application for condonation of delay. The appellant is a real estate company having sufficient means at its command to act promptly in the eventuality it wishes to prefer an appeal before this forum. Section 44(2) of the Real Estate (Regulation and Development) Act, 2016, period

of 60 days has been prescribed for preferring an appeal. However, in the instant case, appeal has been filed after inordinate delay and no cogent reasons are forthcoming for condonation thereof. The appellant has failed to prove that it was reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in the present case.

8. The allottee has suffered long enough as the order was passed way back on 07.12.2021. The allottee had to fight a protracted battle with the promoter who is in dominant position. Admittedly, the appeal of the appellant against order dated 30.05.2018 vide which its application for grant of Occupation Certificate was rejected, was also dismissed by the Principal Secretary, Director, Town & Country Planning Department, Haryana. Vide impugned order, the appellant has been directed to pay upfront payment of Rs.19,30,607/- on account of delay caused in offering possession and further monthly interest @ Rs.22,068/- w.e.f. 07.12.2021 till the date a legally valid offer of possession is made.

8. The application is, thus, without any merit and is hereby dismissed.

10. Consequently, the appeal is also dismissed.

11. The amount of Rs.24,38,171/- deposited by the promoter with this Tribunal in view of proviso to Section 43(5) of the Act be remitted to the Authority along with interest accrued thereon. The Authority shall retain the same to be disbursed as per entitlement of the parties on culmination of the execution proceedings, subject to tax liability, if any.

12. Copy of the order be communicated to the parties/counsel for the parties and the Authority.

13. File be consigned to the record.

Justice Rajan Gupta  
Chairman  
Haryana Real Estate Appellate Tribunal

Rakesh Manocha  
Member (Technical)

March 10, 2025  
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