

**BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL**

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**CM No. 1411 of 2023 in/and**

**Appeal No.739 of 2022**

**Date of Decision: April 21,2025**

Smt. Shalini Chhabra, #560, Mount Kailash, Tower 111, East of Kailash, New Delhi-110065

Appellant.

Versus

Haryana Shehri Vikas Pradhikaran, Sector 12, Faridabad

Respondent

Present : Mr. Dharamvir Singh, Advocate for the appellant.  
Mr. Arvind Seth, Advocate for the respondent.

**CORAM:**

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

**Chairman**  
**Member (Technical)**

**O R D E R:**

**RAJAN GUPTA, CHAIRMAN**

The present appeal is accompanied by an application seeking condonation of delay of 369 days and 65 days in re-filing and filing thereof, respectively.

2. The impugned judgment is dated 07.04.2022. As per the appellant, the appeal could not be filed within limitation as she was unwell and could not give instructions to the counsel

for filing appeal. The delay occurred for bonafide reasons which were beyond her control.

3. We have heard learned counsel for the parties and given careful thought to the facts of the case.

4. If the grounds are so specious, there is no option but to reject the application seeking condonation of delay. In a recent judgment of the Supreme Court in **Pathapati Subba Reddy (Died) by L.Rs. & Ors. V. The Special Deputy Collector (LA)**<sup>1</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;*

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<sup>1</sup> SLP (Civil) No. 31248 of 2018, decided on 08.04.2024

- (v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is 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.”*

5. 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, yet 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 light of 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.

6. In the instant case, the grounds given by the appellant for condoning the delay in re-filing appeal are not at all convincing. In support of the plea that the appellant was unwell and could not give instructions to the counsel to re-file appeal, no medical evidence has been produced. The appellant

has merely given circuitous pleas in support of her application for condonation of delay. Even before this Tribunal, the appellant was not vigilant in pursuing the appeal. The appeal was registered on 21.10.2022. Incomplete physical copy thereof was filed in the Registry on 28.10.2022. Thereafter, reminders were sent to the appellant on 04.11.2022, 21.11.2022 and 01.12.2022 but neither the appellant nor her counsel came forward to remove the objections. It is nearly one year thereafter that the appellant represented herself before this Tribunal, through her counsel. Under 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 re-filed after delay of 369 days and 65 days in filing and no cogent reasons are forthcoming for condonation thereof. The appellant has failed to prove that she was reasonably diligent in pursuing the matter and this vital test for condoning the delay is not satisfied in the present case.

7. The application is, thus, without any merit and is dismissed. Consequently, the appeal is also dismissed.

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

9. File be consigned to records.

Justice Rajan Gupta,  
Chairman,  
Haryana Real Estate Appellate Tribunal

Rakesh Manocha  
Member (Technical)

April 21, 2025/mk

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