

CM No. 1045 of 2024 in Appeal No. 537 of 2023

**Indu Bala Rustagi and others**

**v.**

**M/s Tulip Infratech Pvt. Ltd.**

...

Present: Mr. Parteek Singh, Advocate for the applicants.

Mr. Sudesh Ranjan Singh, Advocate for the respondent.

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This is an application seeking condonation of delay of 207 days in filing the application for restoration of appeal No. 537 of 2023, which was dismissed on account of non-prosecution on 05.12.2023.

2. In the application seeking condonation of delay, it is pleaded that due to some personal difficulty, counsel for the applicants could not attend the matter on 05.12.2023 and the appeal was dismissed on account of non-prosecution. The applicants got knowledge of the order in the month of July, 2024. Thereafter, they took steps to file the present application. The application is supported by an affidavit of Smt. Indu Bala, one of the appellants-applicants.

3. It is trite law that application seeking condonation of delay must provide sufficient, specific and credible reasons explaining the delay. Vague and unsubstantiated reasons are generally insufficient. If the grounds are so specious, then there is no option but to reject the application seeking condonation of

such huge delay. In a recent judgment of the Hon'ble 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 and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”*

4. 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.

5. In the instant case, the grounds given by the applicants for condoning the delay in filing the application for restoration of appeal are not at all convincing. The applicants have given merely specious pleas in support of their application for condonation of delay.

6. It is pertinent to mention that in the instant case, initially, the appeal was also filed along with an application for condonation of delay of 38 days. The applicants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in the present case.

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

Justice Rajan Gupta,  
Chairman,  
Haryana Real Estate Appellate Tribunal

Rakesh Manocha  
Member (Technical)

21.07.2025

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