

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

**CM Nos. 963 and 1514 of 2024 in/and
Appeal No. 207 of 2024**

Date of Decision: September 17, 2025

Emaar India Limited (formerly known as Emaar MGF Land Limited), 306-308, 3rd Floor, Square One, C-2, District Centre, Saket, New Delhi-110017, Also at Emaar Business Park, MG Road, Sikanderpur Chowk, Sector-28, Gurugram-122002, Haryana through its Authorized Representative Mr. Manish Mahajan, aged about 35 years S/o Anil Kumar

Appellant.

Versus

M/s Priority Agencies Pvt. Ltd., through its Director Mr. Vishal Agarwal, R/o L-16/2A, DLF Phase II, Gurugram, Haryana

Respondent

CORAM:

**Justice Rajan Gupta
Rakesh Manocha**

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

Argued by: Ms. Tanika Goyal, Advocate for the appellant.
Mr. H.S. Shah, Advocate with
Mr. Varun Dutta, Advocate for the respondent.

ORDER:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated 23.05.2023 passed by the Authority¹ whereby the appellant-promoter has been directed to refund the entire amount of Rs.1,12,79,268/- paid by the respondent-allottee along with prescribed rate of interest @10.70% p.a. as prescribed under Rule 15 of the Rules from the date of each payment till the date of refund of the deposited amount. The appellant was also

¹ Haryana Real Estate Regulatory Authority, Gurugram

restrained from creating any third-party rights against the subject unit before full realization of paid-up amount along with interest thereon to the respondent-allottee. The appeal is accompanied by applications seeking condonation of delay of 367 days and 22 days in filing and re-filing thereof.

2. The impugned judgment is dated 23.05.2023. As per the appellant-company, after passing of order by the Authority, the matter was put up before the management of the Company for requisite approvals. Thereafter, the counsel was approached and provided documents for filing the present appeal. In the process, the delay occurred which is not intentional.

3. In the reply filed by the respondent-allottee, it is averred that the appellant-company has failed to show any sufficient cause for inordinate delay.

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

5. 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)**², 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.

² SLP (Civil) No. 31248 of 2018, decided on 08.04.2024

- (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 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.”*

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 laid down in 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. 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.

7. In the instant case, the grounds given by the appellant-company for condoning the delay in filing the 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. Under Section 44(2) of the Act³, period of 60 days has been prescribed for preferring an appeal. However, in the instant case, appeal has been filed after inordinate delay (367 days) 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 23.05.2023. The allottee had to fight a protracted battle with the promoter who is in dominant position. Vide impugned order, the appellant has been directed to refund the entire amount of Rs.1,12,79,268/- paid by the

³ The Real Estate (Regulation and Development) Act, 2016

respondent-allottee along with prescribed rate of interest @10.70% p.a. as prescribed under Rule 15 of the Rules from the date of each payment till the date of refund of the deposited amount.

9. The applications are, thus, without any merit and are dismissed.

10. Consequently, the appeal is also dismissed.

11. The amount of pre-deposit made by the appellant-promoter in terms of proviso to Section 43(5) of the Act along with interest accrued thereon, be remitted to the Authority for disbursement to the respondent-allottee, subject to tax liability, if any.

12. Copy of this order be sent to the parties/their counsel and the Authority.

13. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)
(joined through VC)

September 17, 2025
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