

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No.788 of 2022

Date of Decision: August 12,2025

M/s Vatika Limited, Vatika Triangle, 4th Floor, Sushant Lok, Phase-1, Block-A, Mehrauli Gurgaon Road, Gurugram, Haryana-122022

Appellant.

Versus

1. Mr. Pravin Goel

2. Mrs. Meenu Goel

Both residents of P-20, First Floor, Uppal Southend Sohna, Gurgaon, Haryana

Respondents

CORAM:

**Justice Rajan Gupta
Rakesh Manocha**

**Chairman
Member(Technical)**

Present: Mr. Yashvir Singh Balhara, Advocate for the appellant.

Mr. Parmod, Advocate for the respondents.

RAJAN GUPTA, CHAIRMAN:

Challenge in the instant appeal is to the order dated 03.11.2020, passed by the Authority¹, whereby the appellant-promoter was directed to pay interest at the prescribed rate i.e. 9.30% per annum for every month of delay on the amount paid by the complainants from due date of possession i.e. 20.07.2013 till actual offer of possession along with a grace period of six months due to certain *force majeure* circumstances. The appeal is accompanied by application seeking condonation of delay of 652 days in filing thereof.

2. In the application for condonation of delay, the appellant pleaded that after adjudication of the matter by the

¹ Haryana Real Estate Regulatory Authority, Gurugram

Authority, the appellant tried its best to settle the matter with the respondents as the plot which was directed to be handed over was not available and at that point of time, the respondents were willing to settle the matter. The delay occurred as the staff of the appellant had resigned and it failed to coordinate with the counsel for seeking legal advice and prefer the appeal. Further delay occasioned as it took time for the appellant to provide relevant documents in preparing and filing the appeal. The delay is neither deliberate nor intentional.

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, 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)**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.*
- (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;*

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

- (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 for the reason that the conditions have been imposed, tantamount 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 and 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 light of 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 appellant-company for condoning the delay in filing appeal are not at all convincing. The order was passed by the Authority on 03.11.2020, wherein the promoter was directed to pay delayed possession charges from due date of possession till actual offer of possession along with grace period of six months. In the execution proceedings, preferred by the allottees, pursuant to direction an amount of Rs.25,49,837/- was paid to the decree holders. On the insistence of the decree holders, the Authority passed order dated 05.10.2021 directing the promoter-appellant to hand over the physical possession of the plot to the decree holders within 15 days.

6. The only ground agitated by the appellant for condonation of delay is that limitation is to be counted from the date of passing of order dated 05.10.2021. This plea is mis-conceived. Order dated 05.10.2021 is mere reiteration of the earlier order dated 03.11.2020 thus, it cannot give any fresh cause of action to the appellant. Huge delay of 652 days cannot be condoned on this specious plea. 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 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.

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

8. As the appeal has been dismissed, it will be in the interest of justice to remit the amount of pre-deposit along with interest accrued thereon to the Authority below for disbursement to the parties as per their entitlement, subject to tax liability as per law. Ordered accordingly.

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

10. File be consigned to records.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)

August 12, 2025
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