

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

**CM No. 133 of 2024 in/and
Appeal No. 80 of 2024**

Date of Decision: May 13, 2026

1. Rahul Jindal
2. Rekha Jindal
Both Residents of B-231, West Patel, Nagar, New Delhi

Appellants

Versus

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 Chownk, Sector-28, Gurugram-122002, Haryana through its authorized representative

Respondent

CORAM:

**Justice Rajan Gupta
Dr. Virender Parshad**

**Chairman
Member (Judicial)**

Present: Mr. Balvinder Sangwan, Advocate for the appellants.
Ms. Ankita Chaudhary, Advocate and
Mr. Rohit Sangam, Advocate for the respondent.

ORDER:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against order dated 01.02.2022, passed by the Authority¹. Operative part thereof reads as under:

“H. Directions of the authority

54. Hence, the authority hereby passes this order and issues the following directions under section 37 of the Act to ensure compliance of obligations cast upon the promoter as per the function entrusted to the authority under section 34(f):

i. The respondent is directed to pay the interest at the prescribed rate i.e. 9.30% per annum for every month of

¹ Haryana Real Estate Regulatory Authority, Gurugram

delay on the amount paid by the complainants from due date of possession i.e. 26.08.2013 till 21.01.2021 i.e. expiry of 2 months from the date of offer of possession (21.11.2020). The arrears of interest accrued so far shall be paid to the complainants within 90 days from the date of this order as per rule 16(2) of the rules.

ii. Also, the amount of Rs.3,82,123/- so paid by the respondent to the complainants towards compensation for delay in handing over possession shall be adjusted towards the delay possession charges to be paid by the respondent in terms of proviso to Section 18(1) of the Act.

iii. The complainants are directed to take possession of the unit in question within 2 months from the date of this order as per section 19(10) of the Act after clearing outstanding dues, if any.

iv. Interest on the delay payments from the complainants shall be charged at the prescribed rate i.e. 9.30% by the respondent/promoter which is the same as is being granted to the complainants in case of delayed possession charges as per section 2(zc) of the Act.

v. The respondent is justified in charging the preferential location charges in the facts and circumstances of the present case. Thus, the complainants are liable to pay the same.

vi. The promoter cannot charge any HVAT from the allottees/complainants for the period from 01.04.2014 to 30.06.2017 as the same was to be borne by the promoter-developer only. The respondent-promoter is bound to adjust the said amount, if charged from the allottees with the dues payable by them or refund the amount if no dues are payable by them.

vii. The respondent/promoter is not entitled to charge any amount towards GST from the complainants/allottees as the liability of GST had not

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become due up to the due date of possession as per the buyer's agreement.

viii. The respondent shall not charge anything from the complainants which is not the part of the buyer's agreement. The respondent is also not entitled to claim holding charges from the complainants/allottees at any point of time after being part of the buyer's agreement as per law settled by Hon'ble Supreme Court in civil appeal nos. 3864-3889/2020 decided on 14.12.2020.

55. Complaint stands disposed of.

56. File be consigned to registry."

2. The appeal is accompanied by an application seeking condonation of delay of 629 days in filing thereof.

3. The impugned order is dated 01.02.2022. As per the appellants, the appeal could not be filed within the period of limitation as despite their instructions, the earlier counsel did not file the appeal within limitation. The appellants being laymen, were not aware about the limitation and consequences thereof. The delay occurred due to bonafide reasons, which were beyond their control.

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

5. 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;*
- (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;*

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

(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 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 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.

7. In the instant case, the grounds given by the appellants for seeking condonation of delay are not at all convincing. In support of their plea that the earlier counsel did not file the appeal within limitation, there is nothing on record to show whether the appellants had taken any action against the earlier counsel for his default. It appears that the appellants filed the present appeal as a counter-blast to the appeal filed by the promoter, which has been pending since a long time. Under Section 44(2) of the Real Estate (Regulation and Development) Act, 2016, a period of 60 days has been prescribed for preferring an appeal. However, in the instant case, the appeal has been filed after a delay of 629 days and no cogent reasons are forthcoming for seeking condonation thereof. The appellants have also failed to prove that they were

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reasonably diligent in pursuing the matter and this vital test for condoning the delay remains unsatisfied in the present case.

8. The application is, thus, without any merit and same is hereby dismissed. Consequently, the appeal is also dismissed.

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

Dr. Virender Parshad
Member (Judicial)

May 13, 2026
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