

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Date of decision: March 25,2026

**CM No. 227 of 2025 in/and
Appeal No. 31 of 2025**

Jotindra Infrastructure Limited, 14/3, Mathura Road, Sector 45,
Faridabad, Haryana-121003

...Appellant

Versus

1. Rajvansh Gusain, M-30A, Saurabh Vihar, Badarpur, New
Delhi-110044
2. Haryana Real Estate Regulatory Authority, Panchkula, Mini
Secretariat, New Office Block, 2nd and 3rd Floor, Sector 1,
Panchkula-134114

...Respondents.

Argued by: Ms. Manju Goyal, Advocate for the appellant.
Mr. Roop Singh, Advocate for respondent No. 1.

CORAM:

**Justice Rajan Gupta
Dinesh Singh Chauhan**

**Chairman
Member (Technical)**

ORDER:

RAJAN GUPTA, CHAIRMAN

Present appeal is directed against orders dated 03.05.2023 and 13.05.2024, passed by the Authority¹. Vide order dated 03.05.2023, cancellation of the unit of respondent No. 1-allottee was quashed and appellant-promoter was directed to execute builder buyer agreement with a payment plan within 2 weeks from the date of uploading of the order. Vide order dated 13.05.2024, rectification application filed by the promoter was dismissed. The appeal is accompanied with

¹ Haryana Real Estate Regulatory Authority, Panchkula

an application seeking condonation of delay of 516 days in filing thereof.

2. In the application for condonation of delay, it is averred that order dated 03.05.2023 was uploaded on 10.07.2023. Thereafter, the promoter sought legal opinion for challenging the order by filing review application. Inadvertently, it was filed before Adjudicating Officer which was withdrawn. The same was filed before the Authority on 19.12.2023. The review application was dismissed on 13.05.2024 which was brought to the knowledge of the promoter on 01.09.2024. Thereafter, the present appeal was finalised and filed before this Tribunal. The delay is not intentional and deliberate.

3. In reply to the application seeking condonation of delay, respondent No. 1- allottee averred that mere filing of rectification application under the guise of review cannot be a ground to condone the delay.

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

5. 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. In a recent judgment of the 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:

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

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;*
- (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 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 appellant-company for condoning the delay in filing 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-promoter has a legal team to pursue their matters and is well equipped. There is no dearth of means and persons to pursue the matters of this nature. If the appellant-promoter was wanting to challenge the order, instead of filing review application, it could have filed appeal before the Tribunal knowing well that the Authority did not have jurisdiction to review its own order. It is well known that scope for rectification of order in Section 39 of the Act is very limited. The promoter knew that there was no scope of any substantial relief in such an application. 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.

8. The allottee has suffered long enough as the order was passed way back on 03.05.2023. 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 execute the conveyance deed in favour of the respondent-allottee.

9. The application is, thus, without any merit and is dismissed.

10. Consequently, the appeal is also dismissed.

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

12. File be consigned to records.

Justice Rajan Gupta,
Chairman,
Haryana Real Estate Appellate Tribunal

Dinesh Singh Chauhan
Member (Technical)

March 25,2026
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