

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Date of decision: October 01,2026

**(1) CM No. 2075 of 2026 in/and
Appeal No. 705 of 2026**

1. Capt. Manoj Kumar Agarwal
2. Mrs. Shashi Agarwal
Both R/o 1042, Joy Apartments, Sector-2, Plot-2, Dwarka, New Delhi-110075
Appellants

Versus

M/s Athena Infrastructure Private Limited, Blue One Square, Plot No. 246, First Floor, Udyog Vihar, Phase IV, Gurugram-122016
Respondent

**(2) CM No. 2077 of 2026 in/and
Appeal No. 709 of 2026**

1. Cdr. Praveen Sharma
2. Mrs. Shefali Sharma W/o Cdr. Praveen Sharma
Both R/o E-2, 2144, Sobha Althea, Haroohalli, Doddballapur Main Road, Yelahanka, Bangalore-560064
Appellants

Versus

M/s Athena Infrastructure Private Limited, Blue One Square, Plot No. 246, First Floor, Udyog Vihar, Phase IV, Gurugram-122016
Respondent

CORAM:

**Justice Rajan Gupta
Dinesh Singh Chauhan**

**Chairman
Member (Technical)**

Present: Ms. Neha Jain, Advocate and
Ms. Anjali Sisodia, Advocate for the appellants.

ORDER:

RAJAN GUPTA, CHAIRMAN

This order shall dispose of above-mentioned two appeals, as common questions of law and facts are involved therein. However, the facts have been extracted from Appeal No. 705 of 2026.

2. Present appeal is directed against order dated 07.12.2018, which was corrected vide order dated 16.01.2019, passed by the Authority¹. Operative part thereof reads as under:

“DECISION AND DIRECTIONS OF THE AUTHORITY

32. Thus, the authority exercising power under section 37 of the Real Estate (Regulation & Development) Act, 2016 issue directions:

i. The respondent is directed to give the complainant delayed possession charges @ 10.75% per annum w.e.f. 05.02.2015 till the date of offer of possession i.e. 26.11.2018 amounting to Rs.67,81,412/- as per the provisions of Section 18(1) of the Real Estate (Regulation and Development) Act, 2016 within 90 days from the date of this order.

ii. The respondent is directed to act in accordance with the provisions of section 18(1) of the Act ibid i.e. to adjust the amount @ 10.75% per annum i.e. delayed possession charges.

33. The order is pronounced.

34. Case file be consigned to the registry.”

3. The factual matrix of the case is that the allottees preferred a complaint before the Authority seeking delay possession charges. Vide impugned order, the Authority directed the respondent-promoter to pay delay possession interest from 05.02.2015 to 26.11.2018. The aforesaid order has been impugned in this appeal seeking delay possession charges from 05.02.2015 till actual handing over of possession

¹ Haryana Real Estate Regulatory Authority, Gurugram

i.e. 16.04.2026. The appeal is accompanied with an application seeking condonation of delay of 2640 days in filing thereof.

4. In the application for condonation of delay, it is averred that initially the appellants were informed that execution proceedings shall take place before DC, Delhi. After filing execution there, the appellants were informed that file will be transferred to DC Gurugram. After publication of notification that execution petition shall be filed before HRERA, Gurugram, execution petition was filed there. Same remained pending there due to pendency of proceedings before Hon'ble Supreme Court. Thereafter, recovery certificate calculating the amount upto 31.08.2023 was issued. As the appellants were pursuing the remedy of execution, they were advised to seek modification of the impugned order. The delay is not intentional and deliberate.

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

6. 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:

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:

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

- (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.”*

7. 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.

8. In the instant case, the grounds given by the appellant-allottees for condoning the delay in filing appeal are not at all convincing. The allottees have merely given circuitous pleas in support of their application for condonation of delay. If the appellants had any grievance against the impugned order, they could avail the remedy of filing appeal before the Tribunal. 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, appeal has been filed after an inordinate delay (2640 days) and no cogent reasons are forthcoming for condonation thereof. The appellants 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.

9. It is pertinent to mention here that the allottees are in possession of the unit. They are pursuing the appeal only to get some more monetary benefits.

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

11. Consequently, the appeals are also dismissed.
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

Dinesh Singh Chauhan
Member (Technical)

October 01,2026
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