

**BEFORE THE MAHARASHTRA REAL ESTATE
APPELLATE TRIBUNAL, MUMBAI**

MISC. APPLICATION No. 1357/26 (Delay)

IN

Appeal No. AT06/00334/2026

IN

Complaint No. CC006000000354526

1. Shashank Vengasarkar.

601, Best View, A1-7 Yashodham, Film City
Road, Goregaon East, Mumbai – 400 063.

2. Nilima Vengasarkar.

601, Best View, A1-7 Yashodham, Film City
Road, Goregaon East, Mumbai – 400 063

... Applicants

V/s.

1. Larsen and Toubro Limited;

Officer at L&T House, N. M. Marg, Ballard Estate,
Mumbai – 400 001.

... Non-applicant

Adv. Ms. Ankita Shukla i/b Adv. Mr. Anil D'souza for applicant.

None for non-applicant.

CORAM: SHRI S. S. SHINDE J., CHAIRPERSON &
SHRI SHRIKANT M. DESHPANDE, MEMBER (A)

RESERVED ON : 08th September 2026

PRONOUNCED ON: 10th September 2026

(THROUGH VIDEO CONFERENCING)

ORDER

[PER: SHRIKANT M. DESHPANDE, MEMBER (A)]

1. The applicants/allottees have filed the miscellaneous application

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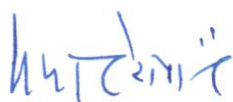
no. 1357/26 for condonation of delay in filing the captioned appeal before this Tribunal, whereby the applicants have challenged the impugned order dated 03.04.2025, passed by the learned Member-I, Maharashtra Real Estate Regulatory Authority (for short "the Authority") in the complaint no. CC006000000354526 filed by the applicant/allottee. By the said order, the said complaint is dismissed. The allottees in the said complaint had sought relief of interest on account of delay in possession. The allottees purchased the subject flat by agreement for sale dated 07.12.2016 and received the possession on 20th July 2018.

2. The learned Advocate for the applicant has submitted that the impugned order was passed on 03.04.2025 and the appeal was required to be filed before 02.06.2025. However, the appeal came to be filed on 23.02.2026 with delay of 266 days beyond the statutory period of limitation. The learned Advocate submitted that the said delay has occurred due to Bonafide and unavoidable circumstances. The learned Advocate submitted that the delay is caused as the applicants and their Advocate did not receive the email communication from the MahaRERA Authority regarding passing of the order thereby preventing them from filing the appeal within the prescribed period of limitation. The applicants thereafter addressed a letter to the Authority on 21.02.2026 seeking certified copy of the order. The learned Advocate submitted that the applicants came to know about passing of the order only on 17.02.2026, when the applicants visited India and met the Advocate on record and wanted to know and enquire the status of their complaint. Only subsequently, upon making inquiries regarding status of the matter they learnt that the order has been passed in the matter. Thereafter, applicants took immediate steps



to obtain certified copy of the impugned order and filed the appeal. The learned Advocate submitted that the applicants are senior citizens and due to their age-related difficulties, they could not regularly monitor the status of the proceedings or undertake immediate legal steps within prescribed period of limitation. The applicants were residing outside India for considerable periods of time, due to which communication, coordination with their counsel, obtaining documents, arranging instructions and completing procedural formalities consumed additional time beyond their control.

3. The learned Advocate submitted that delay in filing the appeal neither willful nor deliberate but is consequence of aforesaid circumstances which were beyond the control of the applicants and occurred despite exercise of due diligence. Further, the learned Advocate submitted that had the Advocate on record who represented the case of the applicants before the Authority been vigilant and careful he would have physically visited the MahaRERA office and inquired about passing of the order. However, he failed to do so and subsequently the burden of his error should not be placed on the already broken shoulders of the applicants. The learned Advocate submitted that no harm or prejudice will be caused to the non-applicant/respondent if the application for condonation of delay is allowed. On the contrary, if the delay is not condoned, the applicants will suffer grave and irreparable loss. With these submissions, the learned Advocate prayed to allow the application and condone the delay of 266 days in filing the appeal.
4. Record reveals that none was present on behalf of respondent/non-applicant when the application was heard. Further, non-applicant/respondent did not file reply to the

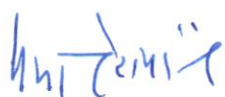


application for condonation of delay. Therefore, averments made in the application remained uncontroverted by the non-applicant.

5. We have given due consideration to the averments made in the application, the argument of the learned Advocate for the applicant and material placed on record. After having heard, the learned Advocate for the applicant, the only point that arises for our consideration is whether the applicants have made out a case for not filing the appeal within the period of limitation? We answer the point with reasons as below: -

REASONS

6. It is not in dispute that the impugned order was passed on 03.04.2025, whereas the appeal came to be filed on 23.02.2026 with delay of 266 days beyond the statutory period of limitation. The explanation for the delay given by the applicants, that the applicants are residing outside India for considerable periods of time, and owing to difficulties in communication and coordination with their counsel, obtaining the necessary documents, arranging instructions and completing the procedural formalities, some time was consumed, which was beyond their control. In our view, the said explanation cannot be a ground to explain the inordinate delay of 266 days in filing the appeal.
7. Further, the contention of the applicants is that if the erstwhile Advocate on record who represented their case before the Authority had been more vigilant and careful the said Advocate could have physically visited the MahaRERA office and inquired the status of the complaint. However, the said Advocate failed to do so and therefore the burden of this error should not be placed on the shoulders of the applicants. Essentially, the applicants have tried to blame the erstwhile Advocate on record for the delay. In



our view, the above explanation is also not satisfactory to justify the inordinate delay in filing the appeal. The applicants have failed to explain what steps they took from the passing of the order on 03.04.2025 till 17.02.2026, when they claimed to have come to the knowledge about the passing of the order. In our view, the explanation is not sufficient to condone the delay.

8. The Hon'ble Supreme Court in the case of *Rajneesh Kumar and another V/s. Ved Prakash* [2024 OnLine SC 3380] in para 10 of the judgment has held as under:

"10. It appears that the entire blame has been thrown on the head of the advocate who was appearing for the petitioners in the trial court. We have noticed over a period of time a tendency on the part of the litigants to blame their lawyers of negligence and carelessness in attending the proceedings before the court. Even if we assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a ground to condone long and inordinate delay as the litigant owes a duty to be vigilant about the judicial proceedings pending in the court initiated at his instance. The litigant, therefore, should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief."

From the observations of the said judgment, we are of the view that the applicants cannot throw entire blame on the Advocate and therefore, it cannot be taken as a ground for condonation of delay.

9. We are of the view that the explanation provided by the applicants for filing the appeal with inordinate delay has not been

satisfactorily explained. It is pertinent to note that the applicant was represented by legal Counsel during the complaint proceedings. The applicant has failed to satisfactorily explain what steps the applicant took in order to file the appeal within 60 days of the limitation period as well as beyond.

10. The Hon'ble High Court of Judicature at Madras in the case of *S.R. Vediappan and Anr V/s. S.P. Ramalingam and Anr.* [C.M.P.No.7730 of 2017 in A.S.S.R.No.34779 of 2017 decided on 11.02.2020], in para-2 and 10 has held as under:

"2.The reason stated is not only flimsy but also shows the casual attitude of the petitioner. The parties, who would like to prefer an appeal against the judgment and decree, are expected to be vigilant. If such a casual approach is encouraged, then this Court is of the opinion that the very principles set out in the law of limitation will be defeated. Law of limitation being a substantive law, the appeals are to be filed within a time limit. Filing an appeal within a period of limitation is the rule and condonation of delay is an exception. Thus, while condoning the delay, the Courts must be cautious and only on genuine reasons, the Courts are empowered to condone the delay. The power of discretion to condone the delay is to be exercised judiciously and by recording reasons. The reason furnished for condonation of delay must be candid and convincing. Therefore, the condonation of delay cannot be claimed as a matter of right and only on genuine reasons, the delay is to be condoned and not otherwise. In the event of condoning the huge delay in a routine manner, the Courts are not only diluting the law of limitation but unnecessarily encouraging

this kind of lapses. Therefore, reasons which are all acceptable alone must be a ground for condonation of delay, and filmy, false and casual reasons cannot be taken for the purpose of condoning the huge delay."

10. At the same time, the discretion must not be exercised in any arbitrary or vague or fanciful manner, but must be exercised like any other judicial discretion with vigilance and circumspection. Delay cannot be condoned as a matter of judicial generosity. Where delay could have been avoided by due care and caution, the Court may not exercise the discretion to condone the delay."

11. In view of the above, we are of the view that the applicant has failed to explain the delay properly. It is settled law that each and every day of delay must be explained. However, the applicant has failed to explain what prevented the applicant from filing the appeal within the statutory period of limitation.
12. The Hon'ble Supreme Court in the case of *State of Madhya Pradesh V/s. Ramkumar Choudhary [2024 SCC Online SC 3612]*, has held as under:

"5. The legal position is that where a case has been presented in the Court beyond limitation, the petitioner has to explain the Court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the Court within limitation. In Majji Sannemma v. Reddy Sridevi, it was held by this Court that even though limitation may harshly affect the rights of a party, it has to be applied with all its rigour when prescribed by statute. A reference was also

made to the decision of this Court in Ajay Dabra v. Pyare Ram wherein, it was held as follows:

"13. This Court in the case of Basawaraj v. Special Land Acquisition Officer [(2013) 14 SCC 81] while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:

"15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an Inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

14. Therefore, we are of the considered opinion that the High Court did not commit any mistake in dismissing the delay condonation application of the present appellant."

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Thus, it is crystal clear that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case and that the expression 'sufficient cause' cannot be liberally interpreted, if negligence, inaction or lack of bona fides is attributed to the party.

13. In a recent judgment the Hon'ble Supreme Court in the case of *Pathapati Subba Reddy (Dies) by L.R.s & Ors V/s. The Special Deputy Collector (L.A.)* [SLP (Civil) No.31248 of 2018 decided on 08.04.2024] in para-26 has held as under:

"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."

14. On perusal of the principles laid down in the aforesaid judgement, 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 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.
15. In the instant case, the grounds taken by the applicant for condoning the delay in filing the appeal is not convincing. The appellant has merely given specious pleas in support of the application for condonation of delay such as they were staying out of India for considerable time and their Advocate on record could had been more vigilant to follow up with the Authority to know the status of the complaint. The instant appeal has been filed after

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inordinate delay, that too without any cogent reason. The applicant has failed to prove that the applicant was reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in the present case. The application is thus without any merits and deserves to be rejected.

16. In view of the above, we are not inclined to allow the application and condone the delay. Accordingly, we proceed to pass the following order.

ORDER

- i) Miscellaneous Application No. 1357 of 2026 for condonation of delay is rejected.
- ii) In view of the rejection of the said miscellaneous application for condonation of delay, the captioned Appeal No. AT06/00334/2026 does not survive, and the same stands disposed of.
- iii) Parties shall bear their own costs.
- iv) Copy of this order be communicated to the Authority and the respective parties, as per Section 44(4) of the Real Estate (Regulation and Development) Act, 2016.

(SHRIKANT M. DESHPANDE)

(S.S. SHINDE, J.)

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