

**BEFORE THE MAHARASHTRA REAL ESTATE  
APPELLATE TRIBUNAL, MUMBAI  
MISC. APPLICATION NO.693 OF 2026 (Delay)  
IN  
Appeal No. AT05/000605 of 2026  
@  
Misc. Application No.694 of 2026 (Stay)  
@  
Misc. Application No.874 of 2026 (Withdrawal of  
Amount  
@  
Misc. Application No.1298 of 2026  
IN  
COMPLAINT NO.CC005000000054043**

Mr. Sachin Prakash Dhavle ]  
(Authorised Partner in Partnership firm)]  
M/s. P.R. Builders & Developers, ]  
Age: 43 years, Occ: Business, ]  
R/at: Survey No.35/3, Behind Upkar ]  
Chambers, Vittalwadi, Akurdi, ]  
Pune-411 035. ] ... Appellant/Applicant.

Versus

1. ~~Maharashtra Real Estate Regulatory~~ ]  
Authority (MahaRERA) ————— ] .. Deleted
2. The Collector of Pune, ]  
Collectorate Office, Pune, ]  
Pune-411 001. ]
3. The Tehsildar Mulshi, ]  
Tehsil Office Mulshi, Near Paud Gaon]   
Mulshi, District-Pune-412108. ]
4. Mr. Atul Dilip Bhagwat, ]  
Age: 42 years, Occ: Business, ]  
R/at: N/1, Giriraj Hsg. Complex, ]  
Bijalinagar, Chinchwad, ] .. Respondents/  
Pune-411033. ] non-applicants

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*Adv Mr. Raheel Malik for Appellant/Applicant.*  
*Adv. Mr. Nilesh Borate for Respondent no.4.*

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

RESERVED ON. : 22<sup>nd</sup> September, 2026

PRONOUNCED ON: 29<sup>th</sup> September, 2026

(THROUGH VIDEO CONFERENCING)

**ORDER**

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

1. The applicant/promoter has filed the Miscellaneous Application No. 693 of 2026 for condonation of delay in filing the captioned appeal before this Tribunal, whereby the applicant has challenged the order dated 08.04.2024 passed by the learned Adjudicating Officer, Maharashtra Real Estate Regulatory Authority, Pune (for short "the Adjudicating Officer") in complaint no.CC005000000054043 filed by the respondent no.4/allottee herein in non-compliance proceedings for execution of the order dated 04.12.2023 passed by the Authority.
2. The learned Advocate for applicant has submitted that the impugned order is passed on 08.04.2024, whereas the appeal is filed on 14.04.2026 with delay of 674 days beyond the statutory period of limitation. The learned Advocate for the applicant has further submitted that the applicant due to non-receipt of the summons/notices of the complaint proceedings, illness and death of the grandmother of the applicant and due to oversight was unable to approach the Advocate for

instructions and preparation of the appeal, therefore, the delay is caused. Further, one of the main partners was outstation and therefore the time period prescribed under the law to file the appeal was not complied with. The learned Advocate submitted that due to demise of the grandmother of the applicant, the applicant was not in stable mind. Further, since 2020 till 01.04.2026 the applicant had no knowledge regarding the impugned order and therefore the applicant could not file the appeal within the statutory period of limitation. The learned Advocate prayed to allow the appeal and condone the delay of 674 days in the interest of justice.

3. The non-applicant/respondent no.4 has remonstrated the application praying therein that the application may be rejected as application is misconceived both in facts and law. Further, the application is false, frivolous, vague and afterthought and has been filed only to defeat the lawful execution/recovery proceedings which have already reached to at an advanced and final stages.
4. The learned Advocate for the non-applicant no.4/allottee submitted that the captioned complaint was filed on 03.03.2020. The matter was heard by the Authority and passed the order dated 04.12.2023. Despite having served in those proceedings the applicant remains absent and therefore the matter proceeded ex-parte against the applicant. The non-compliance order dated 08.04.2024 passed by the Adjudicating Officer resulted in issuance of recovery warrant, which is impugned in the present appeal. It was followed by attachment orders by Tahsildar, Mulshi on 29.09.2025. On 01.04.2026, an

order for sale of attached property was passed and the appeal came to be filed on 10.04.2026 only after order for sale of the attached property was passed. Therefore, by filing the said application the applicant is engaged in dilatory tactics solely to obstruct the sale of the attached property.

5. The learned Advocate further submitted that the applicant is a partnership firm engaged in real estate business and as a business entity cannot be permitted to take shelter behind vague pleas of oversight or lack of knowledge to explain the inordinate delay. The applicant consciously remained absent both in complaint proceedings before the Authority as well as in non-compliance proceedings before the Adjudicating Officer. The applicant has also not substantiated with any document the illness or death certificate of grandmother. The said reason is vague, general and evasive as the applicant has failed to produce on record any document such as death certificate, medical certificate, hospital record and travel documents etc. The applicant's contention that it had no knowledge of the impugned order which was passed on 08.04.2024 until 01.04.2026 is bald assertion which is contradicted by the applicant's own admission that the partner of the applicant attended in Jhansi, several dates from time to time.
6. The learned Advocate submitted that the applicant has failed to disclose sufficient cause, no supporting documents have been placed on record to justify the delay and applicant being commercial entity and not an ordinary litigant is expected to be vigilant about its rights. Further, the non-applicant no.4/allottee has accrued rights in her favour, and the said rights are at the

final stage of getting fruits of the order passed by the Authority in the year 2023.

7. With these submissions, the learned Advocate for the non-applicant no. 4 prayed to reject the application
8. In support of the above contentions, the learned Advocate for the non-applicant no.4 has placed reliance on the following judgments:
  - i) *P.K.Ramchandran V/s. State of Kerala and Anr. 9(1197) 7 SCC 556*],
  - ii) *Pundlik Jalan Patil V/s. Executive Engineer, Jalgaon Medium Project [(2008) 17 SCC 448]*.
9. We have perused the averments made in the application and submissions advanced by the learned Advocates for the parties. The impugned order was passed on 08.04.2024 whereas the appeal has been filed after inordinate delay of 674 days beyond the statutory period of limitation. The only explanation for the delay as sought to be argued by the applicant is that due to non-receipt of the summons/notices, illness and death of the grandmother and due to oversight the applicant could not approach the Advocate for instructions which resulted in inordinate delay of 674 days. In our view, the explanation provided by the applicant is not sufficient to justify the inordinate delay in filing the appeal. The applicant has not produced any documents on record to substantiate the claims for the delay.
10. In the case of *Anshul Aggarwal Vs. New Okhla Industrial Development Authority [(2011) 14 SCC 579]*, The Hon'ble



Supreme Court in paragraph nos. 4 and 5 of its judgment has held as under: -

*"4. In our opinion, the cause shown by the petitioner for not filing the special leave petition within the prescribed period of limitation is wholly unsatisfactory. The averments contained in the above reproduced paragraphs show that within a fortnight of passing of the impugned order, the petitioner had become aware of the same. She instructed her counsel to prepare a draft of the case to be filed in this Court, but did not take steps necessary for filing the petition. She visited India in April, 2011, but then too she did not bother to contact the counsel. The petitioner's assertion that she could not do so because she was suffering from viral fever **has not been substantiated by any document. Therefore, we do not find any valid ground much less justification for exercise of power by this court under section 5 of the Limitation Act.***

*5. It is also apposite to observe that while deciding an application filed in such cases for condonation of delay, the Court has to keep in mind that the special period of limitation has been prescribed under the Consumer Protection Act, 1986 for filing appeals and revisions in consumer matters and the object of expeditious adjudication of the consumer disputes will get defeated if this court was to entertain highly belated petitions filed against the orders of the consumer forum."*

In the above Judgment, it has been held that the applicant is required to substantiate the justification of the delay with supporting documents. If there are no supporting documents, the application is liable to be dismissed. In the instant cases, the applicant has failed to produce any documentary evidence in support of its contentions.

11. 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 flimsy,*

*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."*

12. 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.
13. 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."*

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.

14. In another 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."*

15. 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.
16. The conduct, behaviour, and attitude of a party relating to its negligence, dilatory tactics and malafide intentions are significant

factors to be taken into account while considering the plea of condonation of delay. Ignoring the aforesaid conduct of the applicant, the non-applicant/allottee cannot be exposed to another round of litigation for no fault on her part. It is pertinent that the applicant has filed the captioned appeal only after the non-compliance application was decided by the Adjudicating Officer by passing the impugned order dated 08.04.2024 and subsequent attached and sale of its property. Therefore, the non-compliance proceedings filed by the non-applicant realizing the fruits of the order dated 04.12.2023 passed by the Authority are now at the stage of implementation, condoning the inordinate delay in filing the appeal at this stage amounts to refusal of all actions so far pursued painstakingly by the non-applicant. Entertaining the appeal at this belated stage by condoning the inordinate delay in absence of sufficient cause would make the non-applicant/allottee to run from pillar to post to enforce her accrued rights in the impugned order.

17. We reiterate that the applicant has not taken any step to comply with the impugned order dated 04.12.2024 passed by the Adjudicating Officer even when the non-compliance proceedings were initiated by the non-applicant, which clearly shows the intent of the applicant not to comply with the original order dated 04.12.2023 passed by the Authority. Further, the applicant has not provided any satisfactory explanation for not filing the appeal within the period of limitation or within a reasonable period. The said situation can only be termed as non-seriousness of the applicant and part of dilatory tactics with malafide intentions only to further delay the fruits of the non-compliance order passed by the

Adjudicating Officer. The averments made in the application for delay cannot be classified as reasonable delay in any manner and that too, without disclosing any sufficient cause.

18. For the foregoing reasons, we have come to the conclusion that the applicant has failed to establish sufficient cause for not filing the appeal within the period of limitation and inordinate delay that has occurred in filing the appeal, therefore cannot be condoned. The application is devoid of merits and deserves to be rejected.
19. The respondent no.4 has filed Misc. Application No.874 of 2026 for withdrawal of the amount deposited by the promoter in compliance with the proviso to sub section (5) of Section 43 of the RERA Act, 2016.
20. It is pertinent to note that the Hon'ble Supreme Court in the case of *M/s. Newtech Promoters and Developers Pvt. Ltd. V/s. State of U.P. & Others* [Civil Appeal No(s), 6745-6749 of 2021 (arising out of SLP (Civil) No(s). 3711-3715 of 2021 decided on 21st November, 2021], with regard to the compliance under proviso to sub-section (5) of Section 43 of the RERA Act, 2016. has held as under:

*"127. It may further be noticed that under the present real estate sector which is now being regulated under the provisions of the Act 2016, the complaint for refund of the amount of payment which the allottee/consumer has deposited with the promoter and at a later stage, when the promoter is unable to hand over possession in breach of the conditions of the agreement between the parties, are being instituted at the instance of the consumer/allottee demanding for refund of the amount deposited by them and after the scrutiny of facts being*

*made based on the contemporaneous documentary evidence on record made available by the respective parties, the legislature in its wisdom has intended to ensure that the money which has been computed by the authority at least must be safeguarded if the promoter intends to prefer an appeal before the tribunal and in case, the appeal fails at a later stage, it becomes difficult for the consumer/allottee to get the amount recovered which has been determined by the authority and to avoid the consumer/allottee to go from pillar to post for recovery of the amount that has been determined by the authority in fact, belongs to the allottee at a later stage could be saved from all the miseries which come forward against him.*

*128. At the same time, it will avoid unscrupulous and uncalled for litigation at the appellate stage and restrict the promoter if feels that there is some manifest material irregularity being committed or his defence has not been properly appreciated at the first stage, would prefer an appeal for re-appraisal of the evidence on record provided substantive compliance of the condition of pre-deposit is made over, the rights of the parties inter se could easily be saved for adjudication at the appellate stage.*

*136. It is indeed the right of appeal which is a creature of the statute, without a statutory provision, creating such a right the person aggrieved is not entitled to file the appeal. It is neither an absolute right nor an ingredient of natural justice, the principles of which must be followed in all judicial and quasi-judicial litigations and it is always be*

*circumscribed with the conditions of grant. At the given time, it is open for the legislature in its wisdom to enact a law that no appeal shall lie or it may lie on fulfilment of pre- condition, if any, against the order passed by the Authority in question."*

Therefore, in the light of the ratio and dictum in the above judgment of the Hon'ble Supreme Court, the promoter is mandated to comply with the proviso to sub-section (5) of Section 43 of the RERA Act, 2016, before the appeal can be entertained by this Tribunal. Further, the said requirement of depositing the amount is mandatory.

21. From the above, the intent of the proviso of sub-section (5) of Section 43 of the RERA Act of 2016 is very clear and is made to safeguard the interest of the allottees in case the promoter files an appeal challenging the impugned order. The said proviso reflects the wisdom of the legislature to ensure that the money which has been computed by the Authority at least must be safeguarded if the promoter intends to prefer an appeal before the Tribunal and in case, appeal fails at a later stage, it becomes difficult for the allottee to get the amount recovered which has been determined by the Authority and to avoid the allottee requiring to go from pillar to post for recovery of the amount that has been determined by the Authority, in fact, belongs to the allottee at a later stage could be safeguarded from all the miseries which come forward against him.
22. Therefore, it is imperative that once the appeal filed by the promoter is dismissed the amount deposited by the promoter which actually belongs to the allottee is required to be allowed to be withdrawn by the allottee. In view of the above, we are inclined to

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allow the Misc. Application No.874 of 2026 (withdrawal of amount) by directing the Registry of this Tribunal to release the amount so deposited by the promoter towards compliance to the respondent no.4.

23. We, therefore, proceed to pass the following order: -

**ORDER**

- i) Miscellaneous Application No.693 of 2026 for condonation of delay is rejected.
- ii) In view of rejection of delay condonation application, the captioned appeal No.AT05/00605 of 2026 does not survive and the same accordingly stands disposed of.
- iii) In view of disposal of appeal nothing survives for our consideration in Misc. Application No.694 of 2026 for stay and Misc. Application No.1298 of 2026 for Production of documents and the same also stand disposed of.
- iv) Misc. Application No.874 of 2026 (withdrawal of amount) is allowed and the Registry is directed to release the amount deposited by the appellant/promoter towards compliance of the proviso to sub-section (5) of Section 43 of the RERA Act of 2016 to the respondent no.4.
- v) Parties shall bear their own costs.
- vi) 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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