

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

**M.A. 1/19**

**In**

**AT006000000010942**

Mr. Harmeet Singh Chilotra ... Applicant

Versus

Ravi Developments ... Respondent

(Mr. Jay Mishra, Advocate for Applicant)  
Mr. Makrand V. Raut a/w Hima Khuman, Advocates for  
Respondent)

**CORAM: SUMANT M. KOLHE, MEMBER (J)**

**DATE : 07<sup>TH</sup> OCTOBER, 2019.**

**ORDER BELOW APPLICATION FOR CONDONATION OF DELAY**

Read the application for condonation of delay and say  
filed. Heard both sides. Perused evidence and papers.

2. The following points arise for my determination –

**POINTS**

1. Whether the petitioner has sufficient cause for  
condonation of delay ?
2. What order ?

My findings to above points for the reasons as stated below are as under :

1. Affirmative.
2. As per final order.

**POINT NO.1**

3. The petitioner is allottee. Respondent is promoter. The petitioner had filed the complaint No.CC006000000022861 against the respondent. The learned Member No.1, MahaRERA passed impugned order dated 7.5.2018.

4. Being dissatisfied with the said order, the allottee preferred an appeal to which a delay of 152 days has been caused. In order to substantiate and prove the sufficient cause for delay in preferring the appeal, the petitioner has filed an affidavit in support of application for condonation of delay. I would like to point out that the petitioner was dissatisfied with impugned order particularly on the point that interest for delayed period of possession was granted from 1.5.2017 and the petitioner was asking for interest from agreed date of possession and so the petitioner was under impression that typographical mistake is committed in

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writing date as 1.5.2017 in impugned order from which date, interest for delayed period possession is to be calculated. It is revealed that the petitioner applied for rectification of impugned order on 24.5.2018. However, there were no notices issued for hearing of said application for rectification by the office. So, petitioner filed an application under Rights to Information Act, 2005 on 20.8.2018. However, there was no reply to this application. In October, 2018, petitioner personally visited the office. The office handed over the order passed on his application under RTI Act, 2005. It is revealed from the said order that it was already passed on 19.9.2018. However, the petitioner received it by hand in the month of October, 2018. Thereafter, the petitioner has fairly submitted that there were several attempts for settlement of the matter and moreover, he had financial difficulties in preferring the appeal and so there is delay of 152 days in preferring the appeal. In ordinary course of nature, it is quite possible that the allottee may approach for rectification of order under pretext that there is typographical mistake regarding the date since when interest is to be calculated. Thereafter, the allottee got copy of order passed on application under RTI Act, 2005 only in the month of October, 2018 when there were attempts to settle the matter and the petitioner had financial difficulties to prefer the

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appeal. The affidavit of petitioner is sufficient to substantiate all these grounds which show that there was sufficient cause with the petitioner for not preferring the appeal within stipulated period. In this matter there is no intentional or deliberate delay on the part of the petitioner. The petitioner was acting bonafide throughout the period from the date of passing of order till the date of preferring the appeal.

5. First let us consider the legal aspect of condonation of delay. It is laid down by Hon'ble Supreme Court in **1987 law Suit (S.C.) 214, Collector Land Acquisition Vs. MST Katiji** that; refusing to condone the delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties. Similarly, every day's delay must be explained does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

6. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay.

7. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

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Hon'ble Supreme Court has also laid down in **1998 Law Suit Supreme Court 872, N. Balakrishnan Vs. M. Krishnamurthy** that;

*" Rules of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. Law of limitation fixes a life span for such legal remedy for the redress of the legal injury so suffered. The word sufficient cause as used*

*should receive a liberal construction so as to advance substantial justice. When there is a reasonable ground to condone the delay and that delay was not occasioned deliberately and intentionally, then delay should be condoned.*

8. In view of the above discussion I am of the opinion that this is a fit case to condone the delay. So, I answer the point accordingly. I pass the following order :-

**ORDER :**

- 1) MA 1/19 is allowed.
- 2) Delay of 152 days is condoned.
- 3) Appeal No.AT006000000010942 shall continue with the same number as already registered.
- 4) Appeal be fixed on 13.11.2019 for appearance of both parties.

Date: 07.10.2019

*upelle* 07-10-19  
(SUMANT KOLHE)  
MEMBER (J)