

**RERA-APPL-32-2020 (O&M)
and other connected cases** 1

**122-1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1.RERA-APPL-32-2020 (O&M)

Punjab Urban Planning & Development Authority (PUDA)

....Appellant

Versus

Jasneet Kaur Chahal and another

..Respondents

2.RERA-APPL-31-2020 (O&M)

Punjab Urban Planning & Development Authority (PUDA)

....Appellant

Versus

Jagraj Singh and another

..Respondents

3.RERA-APPL-33-2020 (O&M)

Punjab Urban Planning & Development Authority (PUDA)

....Appellant

Versus

Gurvinder Singh and another

..Respondents

4.RERA-APPL-34-2020 (O&M)

Punjab Urban Planning & Development Authority (PUDA)

....Appellant

Versus

Rohit Ralh and another

..Respondents

5.RERA-APPL-35-2020 (O&M)

Punjab Urban Planning & Development Authority (PUDA)

....Appellant

Versus

**RERA-APPL-32-2020 (O&M)
and other connected cases** **2**

Kesar Singh Grewal and another ..Respondents

6.RERA-APPL-36-2020 (O&M)

Punjab Urban Planning & Development Authority (PUDA)

....Appellant

Versus

Darshan Singh and another ..Respondents

7.RERA-APPL-37-2020 (O&M)

Punjab Urban Planning & Development Authority (PUDA)

....Appellant

Versus

Sanjiv Kumar and another ..Respondents

8.RERA-APPL-38-2020 (O&M)

Punjab Urban Planning & Development Authority (PUDA)

....Appellant

Versus

Siri Ram and another ..Respondents

9.RERA-APPL-40-2020 (O&M)

Punjab Urban Planning & Development Authority (PUDA)

....Appellant

Versus

Manjit Singh and another ..Respondents

Date of decision: 27.10.2022

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms.Anu Chatrath, Sr. Advocate with
Mr. Nishant Maini, Advocate for the appellant

**RERA-APPL-32-2020 (O&M)
and other connected cases**

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in all the appeals

Mr. Chanderdeep Singh, Advocate for
respondent no.1 in RERA-APPL-31-2020 and
for respondent no.1 in RERA-APPL-37-2020

Mr. Amarjit Singh, Advocate for respondent no.1
in RERA-APPL-32-2020

Mr. Rajesh Gupta, Advocate for respondent no.1
in RERA-APPL-33-2020

Mr. Amarjit Singh Bedi, Advocate for respondents
in RERA-APPL-34-2020 and in RERA-APPL-40-2020

Mr. Kesar Singh, Respondent no.1 in person
in RERA-APPL-35-2020

Mr. Bhupinder Singh Walia, Advocate for respondent no.1
in RERA-APPL-36-2020

Mr. Amrik Singh, Advocate for respondent no.1
in RERA-APPL-38-2020

Mr. Animesh Sharma, Advocate for respondent no.2
in all appeals

ANIL KSHETARPAL, J (Oral)

1. By this order, 9 RERA appeals i.e RERA-Appeal No.32,31,
33, 34, 35, 36, 37, 38 and 40 of 2020 shall stand disposed of.

2. While refusing to condone the delay of 64 days in filing the
first appeals, the Appellate Tribunal has dismissed as many as 9 appeals.
The Real Estate Regulatory Authority passed the impugned order on
22nd October, 2019. The Punjab Urban Planning and Development
Authority, on receipt of the copies of various orders, filed respective
appeals alongwith applications for condonation of delay. The delay was
sought to be explained in the following manner:-

“2.That in the present case, the Ld. Authority

had passed the impugned order on 22.10.2019. Copy of the order was dispatched on 06.11.2019 and had been received in the office of the appellant on 18.11.2019 which was diarized vide No. 26744 dated 18.11.2019 and was marked to Legal Advisor (LA) on the same very date. The LA marked it to SLO with the remarks, 'Pl. examine and put up on file and the SLO marked the file to LO-1.

3. That LO-1 after collecting the relevant documents from the office of the Appellant and also from the counsel of the appellant who conducted the case before the the Ld. Real Estate Regulatory Authority and put up a detailed note on 20.12.2019 to SLO/LA/EO. The Estate officer marked the file to AEO on 23.12.2019 for comments to AEO. The AEO further marked the file to AO on 24.12.2019 and AO marked the file to SO (R)/ SA on 24.12.2019.

4. That the Senior Assistant, after calculating the amount of interest marked the file to SO(R) on 06.01.2020, the SO (R) marked it to AEO on 07.01.2020 and AEO marked it to the Superintendent on 07.01.2020. The Superintendent marked the file to SA on 08.01.2020 who after examination sent the file back to the Superintendent on the same very day and the Superintendent marked

it to the AEO on 10.01.2020. The AEO returned the file the assistant with some observations on 13.01.2020. The Assistant again sent the file to the Superintendent on 14.01.2020 and the Superintendent marked the same to the AEO on 15.01.2020. The AEO marked it to Estate Officer on 15.01.2020. The Estate officer marked the file to the Legal Advisor (LA) on 16.01.2020 which was received by him on 20.01.2020 and marked it to the Law Officer (LO).

5. That the Law Officer examined the file in detail and put up the file to obtain orders for filing Appeal against the order dated 07.11.2019 passed by the Ld. RERA Authority on 22.01.2020 and marked it to Legal Advisor. The Legal Advisor marked the file to Additional Chief Administer (HQ) (ACA) on 23.01.2020. The ACA sent the file to the Chief Administrator on 28.01.2020 who, after approval sent the file back to ACA (HQ) on 28.01.2020 and ACA (HQ) marked it back to LA on 29.01.2020 and the LA to LO on the same very date.

6. That the Law Officer again put up the file on 30.01.2020 to LA to get the Demand Drafts prepared for filing the Appeal before this Hon'ble Tribunal. The LA sent the file to the EO on 31.01.2020 and the EO marked it to AEO/Supdt/Asstt

on the same very date. The dealing Assistant on 03.02.2020 put up a note for getting the demand drafts prepared from the Accounts Wing and marked it to Superintendent and the Superintendent marked to AEO on 04.02.2020 who further marked it to AO on the same date. The AO marked the file to the So (R)/SA on 05.02.2020.

7. That the Dealing Assistant of the Accounts Wing, after calculating the amount of interest in terms of order dated 07.11.2019 and put up for approval to the So on 07.02.2020. The SO marked it to AO who marked it to Superintendent on 07.02.2020. The Superintendent marked it to Assistant on 11.02.2020 who put up the draft for sanction on 14.02.2020 and marked it to the Superintendent. The Superintendent marked the file to AEO on 17.02.2020 and in the meanwhile there was re-shuffling of the Estate Officers working in GMADA and after joining of the Estate officer concerned, the sanction order was signed on 20.02.2020.

8. That in the meanwhile the relevant record had been conveyed to the counsel for the Appellant for drafting the Appeal to be filed before this Hon'ble Tribunal alongwith the application for

condonation of delay and the supporting affidavit.”

3. The application is supported by an affidavit. The Appellate Tribunal has refused to condone the delay on the ground that merely because the file has remained pending on the table of one officer/official or the other, is not a sufficient reason to condone the delay of 64 days.

4. Heard the learned counsel representing the parties at length and with their able assistance perused the paper book. On the one hand, learned counsel representing the appellant contends that the view taken by the Appellate Tribunal is myopic and once sufficient explanation for condoning the delay of 86 days in filling the appeal was furnished, the Appellate Tribunal ought to have condoned the delay. On the other hand, learned counsels representing the respondents contend that now, the payment, as per the order passed by the Real Estate Regulatory Authority, has been paid to the respondents.

5. First appeal is an important right available to a party to get the matter re-adjudicated on re-appreciation of evidence. The Appellate Tribunal is the last court to appreciate the entire facts and the evidence. The second appeal is maintainable only if a substantial question of law arises in the case. Here is a case where the Real Estate Regulatory Authority has passed an order against a public authority. The Appellate Tribunal should have decided the case on merits rather than on technicalities. It is a normal practice that the public authority files appeals alongwith application for condonation of delay. The defaulting officer can always be penalized for the fault committed but the public interest should not be made to suffer. The expression 'sufficient cause'

cannot be given a narrow meaning. This matter has been extensively discussed in the case of **G.Ramegowda, Major vs. Special Land Acquisition Officer, Bangalore'** 1988(2) SCC 142. The relevant portion is extracted as under:-

14. The contours of the area of discretion of the courts in the matter of condonation of delays in filing appeals are set out in a number of pronouncements of this Court. See: ***Ramlal, Motilal and Chhotelal v. Rewa Coalfield Ltd.*** AIR 1962 SC 361 : (1962) 2 SCR 762; ***Shakuntala Devi Jain v. Kuntal Kumari*** AIR 1969 SC 575 : (1969) 1 SCR 1006] ; ***Concord of India Insurance Co. Ltd. v. Nirmala Devi*** [(1979) 4 SCC 365 : AIR 1979 SC 1666 : (1979) 3 SCR 694] ; ***Lala Mata Din v. A. Narayanan*** [(1969) 2 SCC 770 : AIR 1970 SC 1953 : (1970) 2 SCR 90]; ***Collector, Land Acquisition v. Katiji*** (1987) 2 SCC 107 etc. There is, it is true, no general principle saving the party from all mistakes of its counsel. If there is negligence, deliberate or gross inaction or lack of bona fides on the part of the party or its counsel there is no reason why the opposite side should be exposed to a time-barred appeal. Each case will have to be considered on the particularities of its own special facts. However, the expression “sufficient cause” in Section 5 must receive a liberal construction so as to advance substantial justice and generally delays in preferring appeals are required to be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bona fides is imputable to the party seeking condonation of the delay. In *Katiji case* [(1987) 2 SCC 107] this Court said: (SCC p. 108, para 3)

“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. . . .

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

15. In litigations to which Government is a party there is yet another aspect which, perhaps, cannot be ignored. If appeals brought by Government are lost

for such defaults, no person is individually affected; but what, in the ultimate analysis, suffers is public interest. The decisions of Government are collective and institutional decisions and do not share the characteristics of decisions of private individuals.

16. The law of limitation is, no doubt, the same for a private citizen as for governmental authorities. Government, like any other litigant must take responsibility for the acts or omissions of its officers. But a somewhat different complexion is imparted to the matter where Government makes out a case where public interest was shown to have suffered owing to acts of fraud or bad faith on the part of its officers or agents and where the officers were clearly at cross-purposes with it.

17. Therefore, in assessing what, in a particular case, constitutes “sufficient cause” for purposes of Section 5, it might, perhaps, be somewhat unrealistic to exclude from the considerations that go into the judicial verdict, these factors which are peculiar to and characteristic of the functioning of the government. Governmental decisions are proverbially slow encumbered, as they are, by a considerable degree of procedural red tape in the process of their making. A certain amount of latitude is, therefore, not impermissible. It is rightly said that those who bear responsibility of Government must have “a little play at the joints”. Due recognition of these limitations on governmental functioning — of course, within reasonable limits — is necessary if the judicial approach is not to be rendered unrealistic. It would, perhaps, be unfair and unrealistic to put government and private parties on the same footing in all respects in such matters. Implicit in the very nature of governmental functioning is procedural delay incidental to the decision-making process.”

6. In view of the above discussion, the Appellate Tribunal is required to take a holistic view of the matter. In such circumstances, this Court is left with no choice but to set aside the order passed by the Appellate Tribunal with a request to decide the present appeals on merits. The delay of 86 days in filing the appeals shall stand condoned. The first appeals filed by the appellant shall stand restored to their

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original numbers. The parties through their counsels are direct to appear before the Appellate Tribunal on 21st November, 2022. The Appellate Tribunal is requested to decide the appeals expeditiously.

7. The present appeals stand allowed.

8. All the pending miscellaneous applications, if any, are also disposed of.

27.10.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE