

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO.212 OF 2023
WITH
INTERIM APPLICATION NO.16955 OF 2023
IN
SECOND APPEAL NO.212 OF 2023**

**Kirit Soni & Anr.Appellants/Applicants
V/S
Ravi DevelopmentsRespondent**

Mr. Ashwin Sawlani *for the Appellants/Applicants.*

Mr. Makarand V. Raut a/w Ms. Hima Khuman *for Respondent.*

CORAM: SANDEEP V. MARNE, J.

DATE : MARCH 1, 2024.

P.C.:

1 The challenge in the present Second Appeal is to the order dated 11 January 2021 passed by the Maharashtra Real Estate Appellate Tribunal (**MahaRERA**) condoning delay of 677 days in filing Appeal against the orders dated 9 March 2018, 26 June 2018 and 11 September 2018 passed by the Regulatory Authority and the Adjudicating Officer.

2 It must be observed here that though the impugned order is passed by the Appellate Tribunal on 11 January 2021 the Appellants filed the present Appeal on 23 August 2022. Thus there was gross delay in filing the present Appeal, which has been condoned by this Court by order dated 22 February 2023. However what the Appellants expect is that the delay caused by them should be condoned but the Respondent ought to have been punished in respect of the delay caused in filing the Appeal before the Appellate Tribunal by dismissing the same. This selective approach of the Appellant is not appreciated.

3 I have gone through the order dated 11 January 2021 passed by the Appellate Tribunal. One of the reasons considered by the Appellate Tribunal for condoning the delay of 677 days is the fact that one of the impugned orders was challenged by the Appellants themselves before the Appellate Tribunal in Appeal No.AT006000000010826. The Respondent was apparently under impression that since one of the orders passed by the Regulatory Authority was already under challenge before the Appellate Tribunal, it is not necessary for the Respondent to challenge it separately. The Appellate Tribunal has accepted the said explanation. Condonation of delay is a discretionary relief and all that this Court can consider is whether the exercise of discretion is sound or not. After going through the order of the Appellate Tribunal, I am not inclined to interfere in the exercise of discretion by the Tribunal. Considering the Appellants' own conduct in filing the present Appeal

after considerable delay and applying before this Court to seek condonation thereof, I am of the view that the exercise of the discretion by the Appellate Tribunal for condoning the delay need not be interfered.

4 It must also be observed that while condoning the delay, the Appellate Tribunal has appropriately compensated the Appellants by imposing costs of Rs.25,000/-, which amount is already paid by the Respondent to the Appellants.

5 No substantial question of law involved in the Appeal, the Second Appeal is accordingly rejected.

6 In view of the disposal of the Second Appeal, nothing survives in the Interim Application and the same is accordingly disposed of.

(SANDEEP V. MARNE, J.)

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