

CM-4008-C-2024 in/and
RERA-APPL-34-2024 and other connected cases

IN THE HIGH COURT OF PUNJAB AND HARYANA
(13 cases) AT CHANDIGARH

1.

CM-4008-C-2024 in/and
RERA-APPL-34-2024 (O&M)
Date of Decision: 18.04.2024

M/S TDI INFRASTRUCTURE LTD

...Applicant/Appellant

V/S

AJAY PAL

...Respondent
2.

CM-4010-C-2024 in/and
RERA-APPL-35-2024 (O&M)

M/S TDI INFRASTRUCTURE LTD

...Applicant/Appellant

V/S

ASHA JINDAL

...Respondent
3.

CM-4037-C-2024 in/and
RERA-APPL-36-2024 (O&M)

M/S TDI INFRASTRUCTURE LTD

...Applicant/Appellant

V/S

BHAWNA KAUSHIK

...Respondent
4.

CM-4044-C-2024 in/and
RERA-APPL-37-2024 (O&M)

M/S TDI INFRASTRUCTURE LTD

...Applicant/Appellant

V/S

RAJ KUMAR AGGARWAL

...Respondent

CM-4008-C-2024 in/and
RERA-APPL-34-2024 and other connected cases

5. CM-4053-C-2024 in/and
RERA-APPL-38-2024 (O&M)

M/S TDI INFRASTRUCTURE LTD
V/S ...Applicant/Appellant

NEENA SETHI
...Respondent

6. CM-4059-C-2024 in/and
RERA-APPL-39-2024 (O&M)

M/S TDI INFRASTRUCTURE LTD
V/S ...Applicant/Appellant

JYOTI MOR
...Respondent

7. CM-4062-C-2024 in/and
RERA-APPL-40-2024 (O&M)

M/S TDI INFRASTRUCTURE LTD
V/S ...Applicant/Appellant

BRIJESH KUMAR SINGH
...Respondent

8. CM-4066-C-2024 in/and
RERA-APPL-41-2024 (O&M)

M/S TDI INFRASTRUCTURE LTD
V/S ...Applicant/Appellant

MADHURI ARYA
...Respondent

9. CM-4069-C-2024 in/and
RERA-APPL-42-2024 (O&M)

M/S TDI INFRASTRUCTURE LTD
V/S ...Applicant/Appellant

MEENU AGGARWAL
...Respondent

CM-4008-C-2024 in/and
RERA-APPL-34-2024 and other connected cases

10. CM-4072-C-2024 in/and
RERA-APPL-43-2024 (O&M)

M/S TDI INFRASTRUCTURE LTD
V/S ...Applicant/Appellant

BIMLA
...Respondent

11. CM-4074-C-2024 in/and
RERA-APPL-44-2024 (O&M)

M/S TDI INFRASTRUCTURE LTD
V/S ...Applicant/Appellant

LOKESH KUMAR AND ANR
...Respondents

12. CM-4081-C-2024 in/and
RERA-APPL-45-2024 (O&M)

M/S TDI INFRASTRUCTURE LTD
V/S ...Applicant/Appellant

JITENDRA ARORA
...Respondent

13. CM-4083-C-2024 in/and
RERA-APPL-46-2024 (O&M)

M/S TDI INFRASTRUCTURE LTD
V/S ...Applicant/Appellant

SUNIL MOR
...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Shubhnit Hans, Advocate
for the applicant-appellant.

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RAJBIR SEHRAWAT, J. (ORAL)

CM-4043-C-2024 in RERA-APPL-37-2024
CM-4052-C-2024 in RERA-APPL-38-2024
CM-4058-C-2024 in RERA-APPL-39-2024
CM-4061-C-2024 in RERA-APPL-40-2024
CM-4065-C-2024 in RERA-APPL-41-2024
CM-4068-C-2024 in RERA-APPL-42-2024
CM-4071-C-2024 in RERA-APPL-43-2024
CM-4080-C-2024 in RERA-APPL-45-2024

1. Allowed, as prayed for.

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CM-4010-C-2024 in RERA-APPL-35-2024
CM-4037-C-2024 in RERA-APPL-36-2024
CM-4044-C-2024 in RERA-APPL-37-2024
CM-4053-C-2024 in RERA-APPL-38-2024
CM-4059-C-2024 in RERA-APPL-39-2024
CM-4062-C-2024 in RERA-APPL-40-2024
CM-4066-C-2024 in RERA-APPL-41-2024
CM-4069-C-2024 in RERA-APPL-42-2024
CM-4072-C-2024 in RERA-APPL-43-2024
CM-4074-C-2024 in RERA-APPL-44-2024
CM-4081-C-2024 in RERA-APPL-45-2024 and
CM-4083-C-2024 in RERA-APPL-46-2024

1. This order shall dispose of the above-mentioned applications filed under Section 5 of the Limitation Act, 1963, read with Section 151 CPC seeking condonation of delay of 214 days in filing the above-captioned appeals, as common questions of law are involved therein. However, the facts are being taken from CM-4008-C-2024 in RERA-APPL-34-2024 for ready reference.

2. The record shows that the order of the Haryana Real Estate Regulatory Authority, Panchkula, (in short, 'RERA') was passed on 29.01.2019. Against that, the applicant-appellant (M/s TDI Infrastructure Ltd.) had preferred an appeal before the Haryana Real Estate Appellate

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Tribunal (for short, 'the Appellate Tribunal'), though without making the payment of the pre-deposit, as required under the statute. However, vide order dated 22.10.2019, the Appellate Tribunal had dismissed the said appeal with an observation that the applicant-appellant had failed to make the mandatory deposit under Section 43(5) of the Real Estate (Regulation and Development) Act, 2016. Thereafter, the applicant-appellant approached this Court by way of CWP-15647-2019, challenging the order dated 22.10.2019. The said writ petition was dismissed, vide order dated, 16.10.2020 passed by a Division Bench of this Court, however, the applicant-appellant was granted the extended time period for making pre-deposit; so that it could be heard on merits by the Appellate Tribunal.

3. However, instead of depositing the statutory amount with the Appellate Tribunal, the applicant-appellant approached the Supreme Court, challenging the order passed by the Division Bench of this Court. Even, the Hon'ble Supreme Court disposed of the appeal filed by the applicant-appellant; by again granting some time to it to make deposit before the Appellate Tribunal; so that its appeal could be heard by the Appellate Tribunal on merits. However, the applicant-appellant had not made the pre-deposit as per the order of the Hon'ble Supreme Court, therefore, the Appellate Tribunal has again dismissed the appeal filed by the applicant-appellant, vide order dated 07.07.2023, on the ground of non-compliance of the statutory requirement of deposit of the entire amount, as per the statutes.

Challenging the said order dated 07.07.2023, the present appeal has been

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sought to be filed, though with a delay of 214 days.

4. It is not a case of ignorance of an illiterate person which has resulted into delay in filing the appeal. It is the concerted and consistent effort of the applicant-appellant Company to avoid making payments of the statutory amount before the Appellate Tribunal; due to which the applicant has reached in the present appeal. In the earlier round of litigation, the High Court and the Supreme Court, both had granted time to the applicant-appellant to fulfil the statutory requirements; so that it could be heard on merits. However, still the applicant-appellant has chosen to take chances with not depositing the statutory amounts. Even in the present appeal, the order of the Appellate Tribunal is dated 07.07.2023, whereas, the appeal has been filed only on 05.04.2024 resulting into delay of 214 days. Since the applicant-appellant is a Company having all resources, financial and material, legal advice, as well as, the means to approach the Courts in time, yet even in the second round of litigation, the present appeal has been filed with a huge delay. Therefore, *bona fide* of the applicant-appellant qua any delay which has occurred in filing the appeal is simply ruled out.

5. Otherwise also, perusal of the material on record does not show any sufficient cause for condoning the delay of 214 days in filing the appeals.

6. Hence, the applications for condonation of delay in filing the appeals are dismissed.

7. Since the delay in filing the appeals has not been condoned,

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therefore, the appeals filed by the applicant-appellant shall be taken as not
having been filed at all.

18.04.2024
parveen kumar

(RAJBIR SEHRAWAT)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No