

D/L.5.
September 24, 2025.
MNS.

CO No. 46 of 2024

Shri Nemai Mitra and another
Vs.
Aparna Banerjee and others

Mr. Siddhartha Banerjee,
Ms. Sharmistha Laha,
Mr. S. Banerjee,
Ms. Sanjana Sinha

... for the petitioners.

Mr. Mainak Ganguly,
Mr. Siddharth Shroff

...for the opposite party no. 3.

1. Affidavit-of-service filed in Court today be taken on record.
2. Despite service, none appears for the opposite party nos. 1 and 2, that is, the complainants before the National Consumer Disputes Redressal Commission (in short “the Commission”).
3. Learned counsel appearing for the owner/opposite party no. 3 submits that the owners are being unnecessarily dragged into the litigation for a prolonged period.
4. By the impugned judgment, the Commission dismissed an application filed

by the present petitioners for condonation of delay in preferring an appeal before the said Commission.

5. Although the delay was merely of about fifty-five days, the Commission, upon relying on several judgments, came to the conclusion that there was no reason to condone the delay, which was not satisfactorily explained.
6. Apart from the quotation of judgments throughout the order, we find that the reasoning is quite cryptic inasmuch as it was simply observed by the Commission that the application for condonation of delay was drafted in a casual manner and even the number of days of delay was not mentioned.
7. Keeping in view the fact that the delay was of only about fifty-five days, the punishment meted out to the petitioners by dismissing the application was disproportionate.
8. In the event the Commission was of the opinion that the delay was not satisfactorily explained, the Commission ought to have granted an opportunity to the petitioners to

file a supplementary affidavit, thereby sufficiently explaining the reasons for the delay, instead of dismissing the application for condonation of delay outright by taking a strict view of the matter, contrary to the well-settled legal position that unless patent *mala fides* can be attributed to the petitioners, a lenient view is taken in condoning delay, particularly when the number of days of delay is not much.

9. Moreover, the mentioning of the exact number of days of delay in the condonation application is not a mandatory or statutory requirement. What is needed is a satisfactory explanation for the substantial period of delay.

10. In such view of the matter, CO No. 46 of 2024 is allowed, thereby setting aside the impugned order dated November 1, 2023 passed by the National Consumer Disputes Redressal Commission, New Delhi, and directing the Commission to dispose of the application for condonation of delay of the petitioners afresh, upon giving an opportunity to the petitioners to file a supplementary affidavit to the

application for condonation of delay, thereby furnishing further particulars as to the explanation of the delay in preferring the challenge.

11. The Commission will be at liberty to fix a reasonable time-frame for filing such supplementary affidavit and directing opposition, if any, to be filed thereto by the respondents in the appeal.

12. It is expected that upon granting such opportunity, the Commission shall dispose of the condonation application as expeditiously as the business of the Commission permits in accordance with law, without being prejudiced unnecessarily in any manner by the observations made either by this Court or by the Commission in the order impugned herein.

13. There will be no order as to costs.

14. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)