

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6723 OF 2025

Shukla Housing Pvt Ltd & Anr ..Petitioners
Versus
Vishwas Balkrishna Nipane ...Respondent

Ms. Preeti Walimbe, with Vaishnavi Nagargoje, for the Petitioner.
Mr. Milind H. Thenge, for the Respondent.

CORAM: N. J. JAMADAR, J.
DATED : 22nd AUGUST 2025

ORDER:

1. The challenge in this Petition is to an order dated 30th January 2025 passed by the National Consumer Disputes Redressal Commission (“NCDRC”) whereby the Revision Petition No. NC/RP/159 of 2025 preferred by the Petitioners against an order dated 23rd October 2024 passed by the Consumer Disputes Redressal Commission, Maharashtra (“State Commission”) came to be dismissed.

2. By the said order the State Commission rejected the Application for condonation of 351 days in preferring Appeal against the judgment and order dated 28th February 2019 passed by the District Consumer Disputes Redressal Forum, Thane, in CC/13/87.

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3. The Respondent had filed Consumer Compliant No. CC/13/87 seeking enforcement of the contractual obligations under the Agreement dated 13th January 1995, and for delivery of possession of the flat after accepting the balance consideration. By Judgment and order dated 28th February 2019, the said complaint came to be partly allowed and the Petitioners-Opponent Nos. 1, 3 and 4, were jointly and severally directed to hand over possession of the flat as per the Agreement dated 13th January 1995 upon receipt of the balance consideration of Rs.52,560/- along interest @ 15% per annum, and also pay compensation of Rs.1,00,000/- for mental agony and costs of Rs.10,000/-.

4. As Appeal could not be filed by the Petitioners, within the stipulated period of limitation, an Application for condonation of delay came to be filed with the assertion that the Petitioner No.2, who was looking after the management of the company, in general, and the legal matters, in particular, was unwell and hospitalized; Anilkumar Shukla, another director of Petitioner No.1-Company had undergone a kidney transplant surgery and the Advocates who represented the Petitioners before the District Consumer Forum, Thane, passed away in the month of April 2021. Therefore, there was delay in collecting the documents and filing the Appeal.

5. The State Commission found that the delay was not satisfactorily explained. The reason of illness of Petitioner No.2 did not constitute a sufficient cause as the Petitioner No.2 was hospitalized for few days in the year 2019 and 2020-2021. Even the cause of death of the Advocates who represented the Petitioners before the District Consumer Forum cannot be termed as a sufficient cause as the learned Advocates passed away after a period of one year had elapsed from the date of judgment and order passed by the District Consumer Forum.

6. Being aggrieved the Petitioner preferred the Revision Before the NCRDC.

7. The NCRDC found no illegality or material irregularity to warrant interference with the order passed by the State Commission in exercise of revisional jurisdiction.

8. Ms. Walimbe, the learned Counsel for the Petitioner, submitted that the NCRDC did not properly appreciate the reasons ascribed by the Petitioners for the delay in filing the Appeal. An endeavour was made by Ms. Walimbe to draw home the point that there was sufficient material to account for the delay in filing the Appeal before the State Commission. Both the State Commission as well as the NCRDC took a very rigid and hyper-technical view of the matter and lost sight of the well established principle that an Application for condonation of delay deserves liberal consideration.

9. I have carefully perused the material on record including the orders passed by the NCRDC and the State Commission. First and foremost, it is necessary to note that the District Consumer Forum had decided the matter after providing an effective opportunity of hearing to the Petitioners. On 17th December 2018, the submissions on behalf of the parties, including Mr. Shivram Mohate, the learned Advocate, who appeared for the Petitioners, were heard and the Complaint was closed for pronouncement of judgment of 28th February 2019. The Petitioners were thus aware of the date scheduled for the pronouncement of the judgment and, accordingly, the judgment was delivered on 28th February 2019.

10. In the aforesaid backdrop the sufficiency of the causes ascribed by the Petitioners deserved to be appreciated.

11. From the perusal of the material on record it becomes evident that the Petitioner No.2 was hospitalized during the periods of 11th March 2019 to 16th March 2019; 8th January 2020 to 13th January 2020 and 26th December 2020 to 4th January 2021. The aforesaid periods of hospitalization, even if the case of the Petitioners, that it was only the Petitioner No.2 who was looking after the legal matters of Petitioner No.1-Company is taken at par, do not satisfactorily account for the delay of over one year in filing the Appeal.

12. The second cause ascribed by the Petitioners of the death of the Advocate P.M. Tendulkar and Advocate of Mr. Shivram Mohate in the month of April 2021, also does not constitute sufficient cause as the unfortunate deaths occurred more than one year of the order passed by the District Consumer Forum. The endeavour of Ms. Walimbe to take refuge in the exigency of the situation which arose on account of Covid-19 also does not warrant countenance as more than one year had already elapsed before the Lockdown restrictions were imposed in the month of March 2020.

13. The State Commission was, therefore, justified in drawing an inference that the Petitioners failed to satisfactorily account for the delay. It is true while determining an Application for condonation of delay, the Courts generally lean in favour of condonation of delay so as to advance the cause of substantive justice. At the same time, while deciding the Application for condonation of delay in the matters arising out of the Consumer Protection Act, the Forums/Courts are required to be alive to the object of the Consumer Protection Act, and the special period of limitation prescribed therein. It may not be, therefore, appropriate to entertain highly belated Applications/Appeals as that would defeat the very object of the swift and cost-effective relief to the consumers.

14. In the case of **Anshul Aggarwal Vs New Okhla Industrial Development Authority**,¹ the Supreme Court laid emphasis on the imperativeness of keeping in view the object of the Consumer Protection Act in deciding the Applications for condonation of delay. The observations of Supreme Court in paragraphs 4 and 5 read as under:

“4. In our opinion, the cause shown by the petitioner for not filing the special leave petition within the prescribed period of limitation is wholly unsatisfactory. The averments contained in the above reproduced paragraphs show that within a fortnight of passing of the impugned order, the petitioner had become aware of the same. She instructed her counsel to prepare a draft of the case to be filed in this Court, but did not take steps necessary for filing the petition. She visited India in April 2011, but then too she did not bother to contact the counsel. The petitioner's assertion that she could not do so because she was suffering from viral fever has not been substantiated by any document. Therefore, we do not find any valid ground much less justification for exercise of power by this Court under Section 5 of the Limitation Act.

5. It is also apposite to observe that while deciding an application filed in such cases for condonation of delay, the Court has to keep in mind that the special period of limitation has been prescribed under the Consumer Protection Act, 1986 for filing appeals and revisions in consumer

¹ (2011) 14 SCC 579.

matters and the object of expeditious adjudication of the consumer disputes will get defeated if this Court was to entertain highly belated petitions filed against the orders of the consumer foras.

(emphasis supplied)

15. A useful reference in this context can also be made to the Constitution Bench judgment of the Supreme Court in the case of **New India Assurance Company Limited Vs Hilli Multipurpose Cold Storage Private Limited**² wherein while interpreting the provisions contained in Section 13(2)(a) of the Consumer Protection Act which prescribes the time-limit of 45 days for filing the response to the consumer complaint, the Supreme Court emphasized the legislative intent in prescribing such peremptory time-limit. The observations in paragraph 28 are instructive and hence extracted below:

“28. It is true that ‘justice hurried is justice buried’. But in the same breath it is also said that ‘justice delayed is justice denied’. The legislature has chosen the latter, and for a good reason. It goes with the objective sought to be achieved by the Consumer Protection Act, which is to provide speedy justice to the consumer. It is not that sufficient time to file a response to the complaint has been denied to the opposite party. It is just that discretion of extension of time beyond 15 days (after the 30 days period) has been curtailed and consequences for the same have been provided

2 (2020) 5 SCC 757.

under Section 13(2)(b)(ii) of the Consumer Protection Act. It may be that in some cases the opposite party could face hardship because of such provision, yet for achieving the object of the Act, which is speedy and simple redressal of consumer disputes, hardship which may be caused to a party has to be ignored.”

(emphasis supplied)

16. In the light of the aforesaid position in law, if the facts of the case at hand are appraised, it would be difficult to accede to the submissions on behalf of the Petitioners that the State Commission and NCDRC were in error in declining to condone the delay of 351 days in filing the Appeal. Even if generous latitude is given to the causes ascribed by the Petitioners, on their own showing, those causes do not sustain the prayer for condonation of delay.

17. Hence the Petition stands dismissed.

[N. J. JAMADAR, J.]