



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.10568 OF 2025
IN
SECOND APPEAL (ST) NO.18318 OF 2025**

Propel Developers Pvt. Ltd.	...	Applicant
versus		
Mikunj Kiran Joshi	...	Respondent

Mr. Rubin Vakil with Mr. Abir Patel, Ms. Protyusha Thanawala i/by Wadia Ghandy and Co., for Applicant.

Mr. Jairam Chandnani i/by Lexim Associates, for Respondent.

CORAM: N.J.JAMADAR, J.

DATE : 15 OCTOBER 2025

P.C.

1. Heard the learned Counsel for the parties.
2. This application is preferred seeking condonation of 27 days delay in filing the Second Appeal against the order passed by the Maharashtra Real Estate Appellate Tribunal in Appeal No.21265 of 2019 dated 3 February 2025.
3. In the application, it is averred that the appeal could not be preferred within the stipulated period of limitation as the applicant being a company, was required to take decision in consultation with the concerned Customer Relationship Team.
4. Learned Counsel for the Respondent strongly opposed the prayer for condonation of delay. It was submitted that no sufficient cause has been

ascribed by the Applicant to condone the delay. Learned Counsel submitted that even if there is merit in the matter, if the applicant fails to make out sufficient cause, the delay cannot be condoned. To lend support to this submission, learned Counsel for the Respondent placed reliance on the decision of the Supreme Court in the case of **Pathapati Subba Reddy (died) by legal representatives and Ors. V/s. Special Deputy Collector (LA)**¹.

5. I have perused the averments in the application. The period of delay is of 27 days. The delay cannot be said to be inordinate, by any standard. The applicant has ascribed reason of internal consultative process before filing of an appeal. It is trite, some amount of indolence is bound to occur whenever a party approaches the Court for condonation of delay. Thus, the Court is expected to adopt a liberal approach while construing an application for condonation of delay so as to advance the cause of substantive justice.

6. A profitable reference, in this context, can be made to a decision of the Supreme Court in the case of **N. Balakrishnan V/s. M. Krishnamurthy**², wherein the law was enunciated as under :

“9. It is axiomatic that condonation of delay is a matter of discretion of the Court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to a want of

1 (2024) 12 SCC 336

2 (1998) 7 SCC 123

acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower Court.”

10. The reason for such a different stance is thus :

The primary function of a court is to adjudicate the dispute between the parties and to advance substantial justice. Time limit fixed for approaching the court in different situations is not because on the expiry of such time a bad cause would transform into a good cause.

11. Rules of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. the object of providing a legal remedy is to repair the damage caused by reason of legal injury. Law of limitation fixes a life-span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Law of limitation is thus founded on

public policy. It is enshrined in the maxim Interest *reipublicae up sit finis litium* (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the right of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

12. A court knows that refusal to condone delay would result foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide **Shakuntala Devi Jain V/s. Kuntal Kumari (AIR 1969 SC 575)** and **State of W.B. V/s. Administrator, Howrah Municipality ((1972) 1 SC 366).**

13. It must be remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of *mala fides* or it is not put forth as part of a dilatory strategy the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the court should lean against acceptance of the explanation. While condoning delay the Court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite a large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant the court shall compensate

the opposite party for his loss.” (emphasis supplied)

7. In the instant case, the Applicant has ascribed reasons for the delay. It cannot be said that the reasons are wholly unsustainable. Thus, to advance the cause of substantive justice, I am inclined to allow the application for condonation of delay. The delay and inconvenience caused to the Respondent can be taken care of by imposing costs.

8. Hence, the Interim Application stands allowed in terms of prayer clause (a).

9. Delay in filing the appeal stands condoned, subject to costs of Rs.25,000/- to be paid by the Applicant to the Respondent, within a period of two weeks from today.

10. Second Appeal be registered and listed for Admission on 6 November 2025.

11. In the meanwhile, the Appellant is permitted to seek an adjournment before the Authority.

(N.J.JAMADAR, J.)