

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

SECOND APPEAL NO. 495 OF 2025

Klassik Vinyl Products LLP

...Appellant

Versus

Mr. Amit Ved and anr.

...Respondents

**WITH
INTERIM APPLICATION NO. 11045 OF 2025**

Mr. Vishal Kanade, a/w Saket Mane, Krishna Raja, i/b Suneet Tyagi, for the Appellant.

Mr. Ketan Dhavle, a/w Ms. Urusah M. I. and Annie Cardoz, for the Respondents.

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CORAM: N. J. JAMADAR, J.

DATED: 24th SEPTEMBER, 2025

Oral Order:-

1. Heard the learned Counsel for the parties.
2. This appeal under Section 58 of the Real Estate (Regulation and Development) Act, 2016, is directed against a judgment and order dated 9th May, 2025 passed by the Real Estate Appellate Tribunal ("Appellate Tribunal") in Misc. Application No.144 of 2025, whereby the Appellate Tribunal was persuaded to condone the delay in filing the appeal against an order dated 2nd September, 2024, passed by the Maharashtra Real Estate Regulatory Authority ("the Authority") in Complaint No.530686/2024.

3. The appellant is a promoter. The respondents had filed the complaint No.530686/2024, seeking direction to the promoter to execute and register the Cancellation Deed in respect of the registered Agreement for Sale dated 31st December, 2020 and for award of compensation. The said complaint was heard on 22nd August, 2024. It was dismissed by the Authority by a judgment and order dated 2nd September, 2024.

4. It was the claim of the respondents that they were unaware of the passing of the judgment in the said complaint. The respondents became aware of the delivery of judgment in the said complaint only when the respondents received a notice from the appellant on 4th December, 2024. Thereafter, the respondents claimed to have obtained the certified copies of the said judgment and order dated 24th December, 2024 and filed the appeal on 11th February, 2025. Hence, the application for condonation of delay of about 102 days.

5. The application was resisted by the appellant. By the impugned order, the Appellate Tribunal was persuaded to allow the application observing, *inter alia*, that when the judgment was passed in Complaint No.530686/2024, the Authority was not following the practice of notifying the date of pronouncement of the order. Thus, the respondents had no means to know

about the passing of the order by the Authority until they were intimated by MahaRERA by e-mail. The Appellate Tribunal also observed that, the remedy of appeal is a valuable right conferred on the litigants, and, thus, the Tribunal was required to adopt a liberal approach.

6. Being aggrieved, the appellant – promoter has preferred this appeal under Section 58 of the Act.

7. Mr. Kanade, the learned Counsel for the appellant, would urge that though the Appellate Tribunal has, in terms, observed in paragraph 16 of the impugned order that, the respondents failed to explain each day's delay, yet, the Appellate Tribunal proceeded to condone the delay. Therefore, a substantial question of law arises for consideration as to whether the Appellate Tribunal has exercised the discretion in a correct manner.

8. The appeal under Section 58 of the MahaRERA has to follow the discipline of the provisions contained in Section 100 of the Code of Civil Procedure. Appeal can be entertained only when a substantial question of law arises for consideration.

9. In the instant case, this Court finds that, the Appellate Tribunal has adverted to the practice, which was then adopted

by the Authority, and the constraints which the respondents – complainants then faced in getting knowledge about the order having been passed by the Authority. In any event, since the Appellate Tribunal has exercised the positive discretion to condone the delay, this Court in exercise of the appellate jurisdiction cannot lightly interfere with the exercise of discretion by the Appellate Tribunal which advances the cause of substantive justice.

10. A useful reference, in this context, can be made to the decision of the Supreme Court in the case of *N. Balakrishnan V/s. M. Krishnamurthy*, 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 want of acceptable explanation whereas in certain other cases delay of 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 whole 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

in 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 putt 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 quiet 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)

11. The aforesaid being the position in law, in the considered view of this Court, the appeal does not raise any question of law much less a substantial question of law.

12. The appeal, thus, stands dismissed.

13. In view of disposal of second appeal, IA/11045/2025 also stands disposed.

[N. J. JAMADAR, J.]