



CMSA Nos. 61 to 63 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-09-2025

CORAM

THE HON'BLE MR JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

CMSA Nos. 61 to 63 of 2025

AND

CMP.Nos. 21896, 21897 and 21900 of 2025

CMSA No. 61 of 2025

M/s. VGN Projects Estates Private Limited

(formerly known as VGN Developers Private Limited)

Represented by its Authorized Representative, Mr A.Rangappan,

Having Registered Office at:

Y-222, VGN Kimberly Towers,

2nd Avenue, Anna Nagar,

Tamil Nadu, Chennai-600040

..Appellant

Vs

1.Viswanathan Kalyanasundaram

2. C.S.Saraswathi

..Respondents



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CMSA No. 62 of 2025

M/s. VGN Projects Estates Private Limited
(formerly known as VGN Developers Private Limited)
Represented by its Authorized Representative, Mr A.Rangappan,
Having Registered Office at:
Y-222, VGN Kimberly Towers,
2nd Avenue, Anna Nagar,
Tamil Nadu, Chennai-600040 ..Appellant

Vs

1. C.Karthikeyan
2. Sandhya Karthikeyan ..Respondents

CMSA No. 63 of 2025

M/s. VGN Projects Estates Private Limited
(formerly known as VGN Developers Private Limited)
Represented by its Authorized Representative, Mr A.Rangappan,
Having Registered Office at:
Y-222, VGN Kimberly Towers,
2nd Avenue, Anna Nagar,
Tamil Nadu, Chennai-600040 ..Appellant

Vs

1. R.Navaneetha Krishnan
2. C.N.Shubha ..Respondents



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These Appeals are filed under Section 58 of the Real Estate (Regulation and Development) Act r/w Section 100 of CPC to set aside the impugned order passed by the Tamil Nadu Real Estate Appellate Tribunal, Chennai in M.A.Nos. 331 & 332 of 2025, dated 20.08.2025 and in M.A.No.305 of 2025, dated 08.08.2025.

For Appellants: Mr.Vijay Narayan, Senior Counsel

For TATVA Legal, Chennai (in all
Appeals)

For Respondent :

COMMON JUDGMENT

(Made by **HEMANT CHANDANGOUDAR, J.**)

All these appeals under Section 58 of the Real Estate (Regulation and Development) Act, 2016 (for short, “the 2016 Act”) have been filed assailing the orders passed by the Tamil Nadu Real Estate Appellate Tribunal, Chennai in M.A. No. 305 of 2025 dated 08.08.2025 and in M.A. Nos. 331 & 332 of 2025 dated 20.08.2025. By the said orders, the Miscellaneous Applications filed under Section 44(2) of the 2016 Act, seeking condonation of delay of 829 days in filing the appeals challenging the order passed by the Tamil Nadu Real Estate Regulatory Authority, Chennai (hereinafter referred to as “TNRERA”), were



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dismissed. The order of TNRERA directed the appellants to pay the amounts stated therein along with interest @ 9.3% per annum to the respondents.

2. The respondents contended that they had paid money to the appellants towards purchase and construction and booked flats vide agreements dated 27.02.2016, 02.03.2016, and 14.03.2016. The appellant, who is the developer, failed to deliver the flats within the stipulated time and therefore, the respondents filed complaints under Section 31 of the 2016 Act before the TNRERA. The appellants took the defence that the project could not be completed within time because the land on which the project was to be developed had been attached by the Enforcement Directorate under the Prevention of Money Laundering Act, and the attachment was lifted only on 14.02.2019. Subsequently, the CBI filed a closure report before the competent court. After considering this defence, the TNRERA passed a common order dated 30.01.2023.



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3. As the appellants failed to comply with the directions issued by TNRERA, the respondents filed execution applications under Section 40(1) of the 2016 Act on 29.09.2023. The appellants entered appearance and filed counter affidavits in February 2024 opposing execution of the TNRERA's order. In these circumstances, the appellants filed appeals under Section 44(1) of the 2016 Act before the Appellate Tribunal in July 2025 along with applications seeking condonation of delay of 829 days in filing the appeals, and also deposited the amount stipulated under the proviso to Section 43 of the 2016 Act. The Appellate Tribunal, however, dismissed the condonation applications holding that sufficient cause had not been shown to condone the delay. Hence, these appeals.

4. Mr. Vijayanarayan, learned senior counsel for the appellants, submitted that the appellants, in support of their applications for condonation of delay, filed detailed affidavits containing as many as 26 paragraphs narrating the reasons for the delay. In particular, paragraphs 13 to 18 disclosed bona fide and genuine reasons. However, the Appellate Tribunal, without advertng to the sufficient cause shown, dismissed the applications relying on the decision of the



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Apex Court in *H. Dohil Constructions Company Private Limited v. Nahar Exports Limited and Another* [(2015) 1 SCC 680]. He contended that the impugned orders are not speaking orders and that the appellants, having shown sufficient cause, were entitled to condonation of delay. He further argued that rejection of the condonation applications resulted in meritorious appeals being dismissed at the threshold, defeating the cause of justice. No prejudice, he submitted, would have been caused to the respondents had the delay been condoned. He urged that Section 5 of the Limitation Act ought to have been applied liberally to advance substantial justice rather than cause miscarriage of justice. In support, reliance was placed on *Kranti Associates Private Limited and Another v. Masood Ahmed Khan and Others* [(2010) 9 SCC 496] and *Suresh Kumar v. State of Haryana and Others* [MANU/SC/0559/2025].

5. We have carefully examined the submissions of the learned senior counsel for the appellants.



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6. The common order was passed by the TNRERA on 30.01.2023. The respondents filed execution petitions on 29.09.2023. The appellants entered appearance and filed counter affidavits in February 2024, as seen from the records annexed to the memorandum of appeals. Along with the appeals, the appellants filed applications under Section 44(2) of the 2016 Act for condonation of delay. The proviso to Section 44(2) empowers the Tribunal to condone delay if satisfied that there was sufficient cause for not filing the appeal within the prescribed period of 60 days. Therefore, the appellant must show sufficient cause for not filing the appeal in time. In the affidavits, it has mainly been stated that criminal prosecution was launched by the CBI and that the land was attached by the Enforcement Directorate and later released on 14.02.2019.

7. In paragraph 13, the appellants stated that one Mr. Mahadevan M, who was in charge of cataloguing important dates, events, pleadings, documents, and court orders in relation to PMLA proceedings, resigned on 30.01.2021. On account of his resignation, the appellants could not provide their external counsel with a comprehensive list of documents highlighting the extent of the difficulties faced between 2018 and 2022.



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8. In paragraph 14, it is stated that the business premises were relocated between August 2022 and February 2023, and that Mr. Mahadevan had tragically passed away on 22.06.2022, further aggravating the appellants' difficulties in providing relevant documents. In paragraph 15, it is stated that the appellants faced hardship in retrieving misplaced files due to the large volume of records relocated. To substantiate this, communications from one Mr. Ulaganathan, Senior Executive (IT) in the appellant company from August 2023 to November 2023, have been produced. In paragraph 16, it is stated that owing to misplacement of pivotal files, the appellants could reconstruct the necessary records and documentation only in May 2025, after considerable effort.

9. The reasons stated in the affidavits pertain to circumstances prior to the TNRERA order dated 30.01.2023. Further, the appellants contested the execution petitions by filing counter affidavits without raising any plea that they were handicapped due to misplaced documents. Having contested the execution petitions, the appellants filed appeals only on 08.05.2025, i.e., after 829 days. The Tribunal, by order dated 20.08.2025, dismissed the condonation applications observing that appeals are to be filed within 60 days and disposed



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of within 60 days of filing, and that the appellants had failed to explain the inordinate delay satisfactorily. The Appellate Tribunal also observed that condoning such delay would defeat the purpose of Section 44(5) of the 2016 Act and relied on the decision of the Supreme Court in H. Dohil Constructions Company Private Limited (supra).

10. The primary contention of the appellants is that the Appellate Tribunal did not consider the reasons stated in the affidavits. However, as already noted, the reasons offered relate to events prior to the RERA's order dated 30.01.2023, and no explanation has been offered for the delay thereafter. Therefore, it cannot be said that the Appellate Tribunal failed to consider the affidavits while concluding that no sufficient cause was shown.



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11. The decision in Suresh Kumar (supra) is distinguishable on facts.

That case involved delay in awarding compensation under the Land Acquisition Act, which is a beneficial legislation, where the Supreme Court held that land losers should not be denied compensation due to delay, and the land losers were denied interest for the delayed period . The context and object there are entirely different and not applicable to the present case under the 2016 Act.

12. In the present case, the impugned order arises under the 2016 Act, which was enacted to regulate and promote the real estate sector, ensure transparent sale of real estate projects, protect consumers, and provide a mechanism for speedy dispute resolution through adjudicating authorities and an appellate tribunal.

13. The Apex Court in the case of *Pathapati Subba Reddy Vs. The Special Deputy Collector (SLP No. 31248 of 2018)* with reference to Sections 3 & 5 of the Limitation Act and referring to its earlier judgments, has emphasised as follows;



"26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;



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(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision."

14. When there is a long and inordinate delay in filing an appeal, the rights of the successful party under the earlier order get affected. Once RERA has passed an order, the homebuyers, who are the respondents, acquire valuable rights. Allowing the appellant to challenge such an order after 829 days without sufficient cause would defeat certainty in law. Parties are expected to be vigilant in protecting their rights. Delay can be condoned only when sufficient and genuine reasons are shown.

15. In this case, the delay of 829 days is not minor but very long. If it is condoned, it will cause serious prejudice to the respondents, who are genuine homebuyers and have already suffered due to the non-delivery of their flats. They have invested their life savings in the hope of getting shelter. On the other hand, the appellant will not suffer real hardship if the delay is not condoned, since its main explanation was that the project land was attached under PMLA



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proceedings. That attachment, however, was lifted as early as 14.02.2019.

16. Even after the lifting of the attachment, the TNRERA observed that the appellant failed to complete the project or hand over possession within the agreed time. The agreements dated 27.02.2016, 02.03.2016 and 14.03.2016 required the appellant to deliver the flats within 42 months, i.e., by 27.08.2019, 02.09.2019 and 14.09.2019. But this was not done. Therefore, the explanation offered by the appellant does not amount to “sufficient cause” for condoning such a long delay.

17. This Court is not required to decide whether the delay in completing the project was deliberate, negligent, or unavoidable. What matters is that condoning such a huge delay would cause injustice to the homebuyers rather than serve the ends of justice. The appellant cannot take advantage of its own inaction or negligence.

18. The appellant has not specified which documents were misplaced or untraceable and relevant for filing the appeal, but has merely stated that the relevant documents were misplaced or not traceable. The affidavit does not contain any averment to substantiate that the said documents were subsequently traced and that the appeals were thereafter filed.



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19. Therefore, we hold that the appellant has not shown any sufficient reason for condonation of delay of 829 days in filing the appeals. The Appellate Tribunal rightly dismissed the applications for condonation of delay, and its order does not suffer from any illegality that requires interference.

20. Accordingly, the appeals are dismissed. Consequently, the connected Miscellaneous Petitions are also closed. There will be no order as to costs.

(R.S.K. J.,) (H.C. J.,)

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