

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9689 OF 2025**

Godrej Projects Development Ltd. ... Petitioner
versus
R.K.Ramani, and
Jayanti Ramani ... Respondents

Mr. Mayur Khandeparkar with Mr. Sunil A. Vyas, Ms. Rishika Virwadia, Ms. Sakshi Verma, Ms. Sonam Singh i/by Fox Mandal and Associates LLP, for Petitioner.

Ms. Ami Mandani, for Respondent No.2.

CORAM: N.J.JAMADAR, J.

**RESERVED ON : 24 JUNE 2026
PRONOUNCED ON : 2 JULY 2026**

Digitally
signed by
SWAROOP
SHARAD
PHADKE
Date:
2026.07.02
19:36:54
+0530

JUDGMENT :

1. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.
2. This petition under Article 227 of the Constitution of India assails an order dated 26 May 2025 passed by the State Consumer Disputes Redressal Commission, Maharashtra (the State Commission) in Revision Petition No.RP/25/2, whereby the revision preferred by the Petitioner – original opposite party against an order dated 6 August 2024 passed by the District Consumer Disputes Redressal Commission (the District Commission) in MA/22/29, thereby condoning the delay in filing the complaint, came to be dismissed, observing, inter alia, that the period during which the complaint

was pending before the State Commission was required to be excluded and, in the interest of justice, delay deserved to be condoned by adopting a liberal approach.

3. Background facts leading to this petition can be stated, in brief, as under :

3.1 Respondent Nos.1 and 2 – complainants had booked a flat being 103, C Wing, Godrej Central project, developed by the Petitioner for an aggregate consideration of Rs.2,19,55,239/-. The complainants had parted with part consideration of Rs.45,15,844/-. Allotment letter was issued by the Petitioner to the complainants. The Petitioner claimed that there was default on the part of the complainants to pay the balance consideration, despite repeated reminders to make the payment in accordance with the terms of the agreement between the parties. Thus, the Petitioner professed to terminate the allotment and proceed to forfeit an amount of Rs.45,15,844/- paid by the complainants.

3.2 The complainants responded to the said termination letter and questioned the legality and propriety of the said course. Eventually, the complainants filed original Complaint No.18/685, along with MA No.18/288 seeking condonation of delay in preferring the complaint, on 13 August 2018, before the State Commission. By an order dated 16 April 2019, the State Commission returned the complaint along with the application for condonation

of delay for filing the same before the proper forum opining that the State Commission has no pecuniary jurisdiction to entertain the complaint and it was required to be filed before the District Commission.

3.3 The Petitioner asserts, the complainants committed default in presenting the complaint before the proper forum within the period of one month, as directed by the State Commission. Instead, a fresh complaint being No.CC/22/185, was filed before the District Commission purportedly under Section 34 of the Consumer Protection Act, 2019 (the CP Act, 2019) along with an application for condonation of delay of 76 days, though the actual delay was of 1192 days.

3.4 The Petitioner resisted the said application.

3.5 By an order dated 6 August 2024, the District Commission condoned the delay observing that, on account of the presentation of the complaint initially in a forum which was found to have no pecuniary jurisdiction and the subsequent presentation of the complaint before the District Commission, the delay deserved to be condoned.

3.6 Being aggrieved, the Petitioner preferred a revision before the State Commission.

3.7 By the impugned judgment and order, the State Commission concurred with the view of the District Commission. It was of the view that the expression “sufficient cause” was required to be construed liberally and, in the

facts of the case, the delay deserved to be condoned.

3.8 Being further aggrieved, the opposite party has invoked the writ jurisdiction.

3.9 During the pendency of the Petition, Respondent No.1 has passed away.

4. I have heard Mr. Mayur Khandeparkar, learned Counsel for the Petitioner, and Ms. Mandani, learned Counsel for the Respondent No.2, at some length. With the assistance of the learned Counsel for the parties, I have perused the material on record.

5. Mr. Khandeparkar, learned Counsel for the Petitioner, submitted that there is no power to condone the inordinate delay if the party seeking condonation of delay fails to ascribe any reason. The computation of the period of delay of 76 days only, by the complainants was clearly erroneous. In fact, there was a delay of 1192 days. Emphasis was laid by Mr. Khandeparkar on the fact that the first complaint itself was lodged after the period of limitation of two years had expired since the termination of the allotment. Secondly, the complainants were not entitled to have the benefit of the provision of exclusion of time, as envisaged by Section 14(1)(3) of the Limitation Act, 1963, as there was complete failure on the part of the complainant to present the complaint within the period of one month as directed by the State Commission. The reasons ascribed by the complainants

for the delay are ex-facie unsustainable to condone huge delay of 1192 days.

6. To buttress the submission that the delay cannot be condoned in the absence of reasons having been ascribed by the party seeking condonation of delay, Mr. Khandeparkar placed reliance on the judgment of the Supreme Court in the case of **State of Nagaland V/s. Lipok AO and Ors.**¹.

7. Mr. Khandeparkar would urge, the complaint that was presented before the District Commission pursuant to the liberty granted by the State Commission while returning the complaint was not the same complaint which was returned by the State Commission. No complaint was filed before the District Commission on 22 July 2022. In such a case, the said complaint before the District Commission cannot be said to be a continuation of the complaint which was initially filed before the State Commission. To this end, Mr. Khandeparkar placed reliance on a judgment of the Supreme Court in the case of **Sri Amar Chand Inani V/s. Union of India**².

8. In contrast to this, Ms. Mandani, learned Counsel for Respondent No.2 would submit that the resistance to the condonation of delay on the part of the Petitioner who has obtained huge amount of Rs.45,15,844/- and reneged from the contractual obligation, is wholly iniquitous. Complainant No.2 and the deceased Complainant No.1 were always ready to pay the balance consideration. However, the Petitioner failed to execute registered agreement

1 (2005) 3 SCC 752

2 (1973) 1 SCC 115

in favour of the complainants, and, therefore, the complainants were insisting upon the execution of the registered agreement in conformity with the provisions of the the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963. Thus, the unilateral termination of the allotment was completely unjust and illegal. This backdrop needs to be kept in view while appreciating the challenge to the order of condoning the delay, submitted Ms. Mandani.

9. Ms. Mandani controverted the submissions on behalf of the Petitioner that the cause of action arose on the date of issuance of the termination letter. It was submitted that the cause of action arose on the last of the communication emanating from the opposite party, which indicates a clear refusal of the performance of the contractual obligations. Ms. Mandani also urged that there was no deliberate delay on the part of the complainants to present the complaint before the District Commission after the complaint was returned by the State Commission. The original record and proceeding and the court fees were not returned to the complainants within a reasonable period. The complainants had to resort to the provisions contained in Right to Information Act, to obtain the papers and proceedings and secure refund of the court fees. Thus, there was a delay; which, in the circumstances of the case, according to Ms. Mandani, deserves to be condoned. Lest the complainants would be rendered remediless.

10. To bolster up the aforesaid submissions, Ms. Mandani placed reliance on the judgments of the Supreme Court in the cases of **Purni Devi and Anr. V/s. Babu Ram and Anr.**³; **Ram Ujarey V/s. Union of India**⁴ and the decision of this Court in **Vilas Tukaram Chavan V/s. Suresh Bhanudas Kulkarni and Ors.**⁵ and that of Chhattisgarh High Court in the case of **Chairman, Chhattisgarh State Electricity Board and Anr. V/s. Ghasiram and Ors.**⁶

11. To begin with few uncontroverted facts. Firstly, the fact that the complainants had booked Flat No. 103, C Wing, Godrej Central project developed by the Petitioner is not in dispute. Secondly, the Petitioner had indisputably issued allotment letter on 10 August 2015. Thirdly, it is incontrovertible that the complainants had paid a sum of Rs.45,15,844/- to the Petitioner. Fourthly, by a letter dated 28 January 2016, the Petitioner professed to terminate the allotment purportedly for the reason that the complainants did not pay the balance amount in terms of the contract between the parties, despite ample opportunity. Fifthly, there was exchange of correspondence, and, eventually, the first complaint bearing No.18/685 was filed on 13 August 2018 before the State Commission. Indisputably, the State Commission returned the complaint along with the application for condonation of delay for presentation to the proper forum on 16 April 2019. The

3 2024 SCC Online SC 482

4 (1999) 1 SCC 685

5 SA No.329 of 2021 dt. 19April 2023

6 FA No.68 of 2009 dt. 15 Oct. 2011

complainants were directed to submit the complaint before the appropriate forum, within a period of one month. Lastly, the complaint was eventually filed on 22 July 2022.

12. In the backdrop of the aforesaid facts, it is rather indisputable that the complainants had originally lodged the complaint before the State Commission and that remained on the file on the State Commission till it was returned for want of pecuniary jurisdiction, on 16 April 2019. Whether the complainants are entitled to the benefit of the provisions contained in Section 14 of the Limitation Act, 1963, thus, deserves consideration.

13. Section 14 provides for exclusion of time of proceeding bonafide in Court without jurisdiction. In the case of **Consolidated Engg. Enterprises V/s. Principal Secy. Irrigation Department**⁷, the Supreme Court postulated the conditions which are required to be satisfied before a party could avail the benefit of the exclusion of time as envisaged by Section 14. Para 21 of the judgment in the said case reads as under :

“21. Section 14 of the Limitation Act deals with exclusion of time of proceeding bona fide in a court without jurisdiction. On analysis of the said section, it becomes evident that the following conditions must be satisfied before section 14 can be pressed into service :

- (1) Both the prior and subsequent proceedings are civil proceedings prosecuted by the same party;
- (2) The prior proceeding had been prosecuted with due

⁷ (2008) 7 SCC 169

diligence and in good faith;

(3) The failure of the prior proceeding was due to defect of jurisdiction or other cause of like nature;

(4) The earlier proceeding and the latter proceeding must relate to the same matter in issue; and

(5) Both the proceedings are in a court”

14. In the said case, the Supreme Court further enunciated that the provisions of Section 14 must be interpreted and applied in a manner that furthers the cause of justice, rather than aborts the proceedings at hand and the time taken in diligently pursuing a remedy, in a wrong court, should be excluded.

15. In the case at hand, it is necessary to note, there is no qualm over the point that the conditions enumerated above were fulfilled. The controversy essentially revolves around the time consumed by the complainants in filing the complaint before the District Commission after the complaint was returned by the State Commission. In the application for condonation of delay before the District Commission, it was averred that the cause of action arose on 26 July 2017, the day petitioner vide reply dated 26 July 2017 to the legal notice issued by the complainants justified the termination of the allotment and the forfeiture of the amount.

16. Mr. Khandeparkar would urge that, in the original complaint No.18/685, it was contended that the original complaint was filed along with an

application for condonation of delay on the premise that the cause of action arose on 28 January 2016, the day the termination letter was issued. Thus, the assertion in the fresh complaint filed before the District Commission that the cause of action arose on 26 July 2017 was demonstrably incorrect. In any event, Mr. Khandeparkar would urge, the cause of action would not arise from the date of reply to the legal notice as the allotment was terminated by a letter dated 28 January 2016.

17. In the application for condonation of delay filed before the District Commission it was averred that, after the State Commission returned the complaint by an order dated 16 April 2019, despite follow-up, the file was not traceable. Eventually, an application was required to be made under RTI Act, and, thereafter, the complaint filed before the State Commission was returned. Covid-19 intervened. The complainants being the senior citizens were cautious with their movements. The deceased complainant No.1 was infected with Covid-19 on 27 June 2022. Eventually, after recovery, the complainants lodged the complaint.

18. In the backdrop of the aforesaid assertions and having regard to the period of delay in filing the complaint after the return of the complaint by the State Commission, the question as to when the cause of action first arose, pales in significance. The delay in lodging the complaint before the State Commission was relatively of lesser duration i.e. 7 and half months. Thus, the

controversy boils down to the question whether the reasons ascribed in the application for condonation of delay in filing the complaint before the District Commission constituted sufficient cause.

19. Before exploring an answer on facts, it would be advantageous to note the difference in the approach expected of the superior Court in the case where the Court of first instance has exercised discretion to condone the delay, and, in the case where the Court of first instance has declined to condone the delay. There is subtle yet significant difference in the way the superior Court ought to approach the two distinct situations. In a case where the Court of first instance has condoned the delay, the revisional or superior court ought to be loath to interfere in the exercise of positive discretion, unless the Court finds that the discretion has been exercised though no reasons were ascribed for condonation of delay or the order is otherwise perverse. In the latter case, where the Court of first instance has refused to condone the delay, the entire matter is open before the superior Court, and, it would be permissible to examine the justifiability of the reasons ascribed for the condonation of delay afresh to determine whether the delay deserves to be condoned.

20. It is also trite that the expression “sufficient cause” often receives liberal consideration so as to advance the cause of substantive justice. The overarching principle that informs such liberal consideration is that, the procedure,

being a handmaid of justice, should not be allowed to score a march over the substantive justice. If there is no lack of bonafide or intentional or deliberate delay, the application for condonation of delay deserves a liberal consideration.

21. A useful reference in this context can be made to the judgment of the Supreme Court in the case of *N. Balakrishnan V/s. M. Krishnamurthy* ⁸ 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 reversional jurisdiction, unless the exercise of discretion was on whole untenable grounds or arbitrary or perverse. But it is a different matter when the first cut refuses to condone the delay. In such cases, the superior cut 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.

8 (1998) 7 SCC 123

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 ut 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 in 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)

22. In the case of **State of Nagaland V/s. Lipok AO and Ors. (supra)**, on which reliance was placed by Mr. Khandeparkar, the Supreme Court after adverting to the previous pronouncements, including the aforesaid decision in the case of **N. Balakrishnan (supra)**, enunciated that :

"12.....The expression "sufficient cause" is adequately elastic to enable the court to apply the law in a meaningful manner which subserves the ends of justice - that being the

life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other courts in the hierarchy. This Court reiterated that the expression "every day's delay must be explained" does not mean that a pedantic approach should be made. The doctrine must be applied in a rational common sense pragmatic manner. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk. Judiciary is not respected on account of its power to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so."

23. It is equally true that the delay cannot be condoned if the party seeking condonation of delay fails to offer a reasonable and rational explanation. Delay cannot be condoned as a matter of generosity. Length of delay does bear upon the exercise of discretion, though it would be harsh to expect a litigant to account for each day's delay. A useful reference can be made to the judgment of the Supreme Court in the case of **Basawaraj and Anr. V/s.**

Special Land Acquisition Officer⁹ wherein the Supreme Court enunciated the law as under :

“15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature”.

24. On the touchstone of the aforesaid principles, reverting to the facts of the case at hand, this Court finds that the claim of the complainants that they could not obtain the original complaint and the court fee refund, which they insisted for, after the State Commission directed return of the complaint, finds support in the contemporaneous documents. It appears that the

9 (2013) 14 scc 81

documents were furnished to the complainants under the RTI on 5 April 2022. Those documents reveal that, in view of the application of the complainants for return of the court fee paid on the complaint, which was ordered to be returned, the orders of the then President of the State Commission were obtained and it was informed on 27 January 2022 that the Court fee cannot be refunded. These documents, prima facie, indicate that the complainants were pursuing claim for refund of court fee. It thus implies that, by that time, the original complaint preferred before the State Commission was not returned.

25. Secondly, the exigency of the situation that arose on account of Covid-19 Pandemic, is a matter of record. Pursuant to the orders passed by the Supreme Court in *Suo Motu Writ Petition (Civil) No.3 of 2020*, limitation was suspended from 15 March 2020 to 28 February 2022. Thirdly, it appears that the complainant No.1 was unwell since 27 June 2022, as he was allegedly infected with Covid-19 contagion. Medical certificate was annexed to the application to support the said claim.

26. In view of the aforesaid nature of the documents and the material pressed into service on behalf of the complainants, I find it rather difficult to accede to the submission on behalf of the Petitioner that, no reasons were ascribed for the delay. The broad situation that emerges is also required to be kept in view. Complainant No.2, who has lost her husband – complainant

No.1, is pursuing the proceedings taking umbrage at the forfeiture of the sum of Rs.45,15,844/- deposited by them in the year 2015 towards part consideration. Evidently, no agreement for sale was registered in conformity with the obligation of the Promoter under MOFA, 1963. Complainant No.2 is left to wage a battle against the Petitioner, an established player in the real estate sector. The Complaint No. 2 is primarily seeking the refund of the part consideration i.e. Rs.45,15,844/-, which is a significant amount. Thus, on balance, this Court is of the considered view that, prima facie, justice of the case lies in favour of the Complainant.

27. For the foregoing reasons, this Court in exercise of the supervisory jurisdiction does not find any justifiable reason to interfere with the exercise of the positive discretion to condone the delay by the District Commission, which order has been affirmed by the State Commission. The Writ Petition, therefore, deserves to be dismissed.

28. Hence, the following order :

ORDER

- (i) The Writ Petition stands dismissed with costs.
- (ii) Rule discharged.

(N.J.JAMADAR, J.)