# BEFORE THE RAJASTHAN REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

## Appeal No.170/2024

In : Complaint No.RAJ-RER4A-C-2019-2915

Mrs. Manjula Bansal W/o (Late) Sh. Ashok Kumar Bansal, R/o GH181, Windsor Park, 1 Vaibhav Khand, Indirapuram, Gahziabad-201010, through her son & power of attorney holder Mr. Vikas Bansal.

**….Appellant**

**Vs.**

1. MVL Limited having its registered office at 1201 B, 12th Floor, Hemkunt Chamber, 89, Nehru Place, New Delhi- 110019.
2. Mr. Premadip Rishi, Ex-Managing Director of Respondent No. 1, R/o F-79/18, W1 Lane, Sanik Farm, Khanpur Pushpa Bhawan South Delhi- 110062.
3. Ms. S. Meenakshi, Official Liquidator of Respondent No.1 having its registered office at 8th Floor, Loknayak Bhawan, Khan Market, New Delhi-110003.

**….Respondents**

**CORAM:**

Mr. Justice Madan Gopal Vyas, Hon'ble Chairperson

Mr. Yudhisthir Sharma, Hon'ble Member (Judicial)

**PRESENT:**

For applicant-appellant : Ms. Disha Bohra, Advocate

For respondent : Mr. Neeraj Aggarwal, Advocate through VC

**O R D E R**

***Reserved on 28th April, 2026:***

***Pronounced on 05th May, 2026:***

**Per: Justice Madan Gopal Vyas, Hon'ble Chairperson**

The appellant has filed appeal under Section 44 of the RERA Act, 2016 against the order dated 05/04/2021 passed by the learned Regulatory Authority, whereby the complaints filed by the Appellant herein along with 5 other complainants seeking direction to the respondent-company for handing over possession of the respective units in various projects of the Company or for refund with interest, were dropped from the cause list of the Authority and the case files were consigned to records while observing, as under:-

*"Since all the present complaints have been filed after 05.07.2018, the date provisional liquidator was appointed for the respondent company, this Authority cannot proceed with these, unless and until the complainants have obtained leave of the company court (Hon'ble High Court of Delhi, in the present case).*

*Therefore, it is directed that further proceedings in the present complaints shall remain stayed until and unless the complainants have obtained leave of the company court and submitted a copy of the same to this Authority. The complainants are advised to obtain leave of the company court under section 446 of the Companies Act, 1956 or section 279 of the Companies Act, 2013, as the case may be, to enable this Authority proceed with their complaints. For the meanwhile, the complainants are also advised to file their claims with the provisional liquidator (i.e., the Official Liquidator attached with Delhi High Court).*

*Accordingly, for the present, these complaints shall be dropped from the cause list of the Authority and the case files consigned to records".*

**2)** Since the appeal is time barred by 1092 days, an application under Section 44(2) of the RERA Act has also been filed seeking condonation of the aforesaid delay in preferring the appeal. Counsel for the appellant justified the delay in filing of appeal mainly on the following two grounds:-

1. The appellant faced personal hardship as her husband, who was handling the matter, passed away due to COVID-19 on 29/11/2021, making it difficult to gather documents and proceed with the case.

2. The limitation period was extended by the Hon'ble Supreme Court due to COVID-19 (order dated 10-01-2022), excluding the period from 15/03/2020 to 28/02/2022 for calculating limitation.

**3)** Ms. Disha Bohra, counsel appearing for the applicant-appellant argued that the delay is bonafide and, if not condoned, would cause irreparable harm and denial of justice. Therefore, she prayed that the delay be condoned and the appeal be heard on merits.

**4)** *Per contra*, Mr. Neeraj Aggarwal, counsel appearing for the respondent-promoter vehemently denied all the facts stated by the appellant's counsel and submits that in this case, the complainant has failed to provide sufficient cause for not filing the appeal within the stipulated time. The reasons given for the delay are inadequate and cannot justify extending the limitation period. The counsel for the respondent relies on judicial precedent in the matter of ***Post Master Vs. Livina Media, 2012***, where appeals were dismissed due to delay. It is further argued that condonation of delay is an exception and requires strong justification, which the appellant has failed to substantiate and the appellant filed the appeal belatedly intentionally and did not act with due diligence. Additionally, even after considering the Supreme Court's COVID related extension (excluding 15 March 2020 to 28 February 2022), the appeal should have been filed by 28 May 2022. However, it was filed on 19/06/2024, with no valid explanation for the delay of over two years. Therefore, the respondent prayed to dismissal the aforesaid application for condonation of delay.

**5)** We have heard counsel for the parties and perused the material available on record including the case law cited on the issue.

**6)** So far as death of appellant's husband on 29/11/2021 is concerned, the husband is not a party in the matter and the complaint was filed by the present appellant-Mrs. Manjula Bansal. Further, the impugned-order was passed on 05/04/2021 and the appellant was required to file the present appeal within a period of 60 days by 06/06/2021 but the appellant has filed the present appeal on

19/06/2024 with the inordinate delay of 1092 days. Accordingly, the appellant was having ample time to have filed the appeal and the limitation period to file appeal was lapsed much prior to the death of appellant's husband.

**7)** So far as judgment of the Hon'ble Supreme Court in the matter of **Misc.Application No.21/2022 : in Suo Motu Writ Petition (C) No.3/2020 titled as "IN RE EXTENSION FOR LIMITATION"** is concerned, it was provided by the Hon'ble Apex Court at Direction No.III, as under:-

> *"III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply".*

According to the ratio of the judgment of the Hon'ble Apex Court in the matter of **"IN RE EXTENSION FOR LIMITATION"** supra, in the present matter, no actual balance period of limitation remains available to the Promoter, therefore, the Appellant-Promoter can take advantage of only 90 days period of limitation reckoning from the cut-off date 01/03/2022, which was expired on 31/05/2022 but this appeal was preferred on 19/06/2024; meaning thereby, the instant appeal is still time barred by 730 days {24 months & 10 days}, which too has not satisfactorily been explained. The reasons mentioned in the application are that the company is situated at Gurgaon, Haryana or personal difficulty of the counsel, do not constitute a "sufficient cause" as defined in *first proviso* to Section 44(2)(1) of the RERA Act, 2016.

**8)** It is also noted that the learned Regulatory Authority observed in the concluding part of the impugned-order dated 05/04/2021, as under:-

> *"The complainants are advised to obtain leave of the company court under Section 446 of the Companies Act, 1956 or Section 279 of the Companies Act, 2013, as the case may be, to enable the Authority to proceed with their complaints. For the meanwhile, the complainants are also advised to file their claims with the provisional liquidator (i.e., the Official Liquidator attached with Delhi High Court)".*

It is relevant to mention herein that the Official Liquidator has also filed one application under Section 151 CPC read with Section 446 of the Companies Act, 1956 before the Hon'ble High Court of Delhi in which, the Official Liquidator has prayed for, as under:-

> *"In view of the facts and circumstances stated herein above and under the provisions of Section 446 of the Companies Act, 1956, it is most respectfully prayed that this Hon'ble Court may be pleased:-*
>
> *" i) dismiss the Appeal No.:170/2024 as not maintainable, or alternatively,*
>
> *ii) direct the Appellant to obtain the leave of the Hon'ble High Court of Delhi at New Delhi before proceeding against the Company (In Prov. Liqn.)".*

**9)** In such circumstances, the application filed under Section 44(2) of the RERA Act, 2016 is not acceptable.

**10)** Resultantly, the application filed under Section 44(2) of the RERA Act, 2016 is rejected. Consequently, the appeal is also dismissed being barred by limitation.

**11)** A copy of this order be transmitted to the learned counsel for the parties and Raj-RERA, Jaipur.

File be consigned to record.

**Yudhishthir Sharma,**
**Member (Judicial)**

**Justice Madan Gopal Vyas,**
**Chairperson**

Anil Goyal-PS/Suppl.2