BEFORE THE RAJASTHAN REAL ESTATE APPELLATE TRIBUNAL, JAIPUR

(1) Appeal No.159/2025
In Complaint No.RAJ-RERA-C-N-2022-5742

Modest Infra Limited through its Director Abhishek Pal Singh S/o Ajay Pal Singh, aged about 45 years, having its registered office at 4th Floor, Unique Destination, Laxmi Mandir Crossing, Tonk Road, Jaipur-302015.

….Applicant-Appellant

VERSUS

Arvind Saini S/o Dhola Ram Saini, R/o E1-363, Sitapura, Industrial Area, Sanganer, Jaipur Rajasthan-302018.

….Respondent-Complainant

(2) Appeal No.160/2025
In Complaint No.RAJ-RERA-C-N-2022-5743

Modest Infra Limited through its Director Abhishek Pal Singh S/o Ajay Pal Singh, 4th Floor, Unique Destination, Laxmi Mandir Crossing, Tonk Road, Jaipur-302015.

….Applicant-Appellant

VERSUS

Shyam Babu Sharma S/o Omprakash Sharmar, R/o 32/263, Pratap Nagar, Jaipur, Rajasthan-302017.

….Respondent-Complainant

(3) Appeal No.161/2025
In Complaint No.RAJ-RERA-C-N-2022-5744

Modest Infra Limited through its Director Abhishek Pal Singh S/o Ajay Pal Singh, 4th Floor, Unique Destination, Laxmi Mandir Crossing, Tonk Road, Jaipur- 302015.

….Applicant-Appellant

VERSUS

Kalyan Saini S/o Late Shri Narayan Saini, R/o 848, Govind Nagar West. Gupta Garden, Amer Road, Jaipur -302002.

….Respondent-Complainant

(4) Appeal No.162/2025
In Complaint No.RAJ-RERA-C-N-2022-5745

Modest Infra Limited through its Director Abhishek Pal Singh S/o Ajay Pal Singh, 4th Floor, Unique Destination, Laxmi Mandir Crossing, Tonk Road, Jaipur- 302015.

….Applicant-Appellant

VERSUS

Kalyan Saini S/o Late Shri Narayan Saini, R/o 848, Govind Nagar West. Gupta Garden, Amer Road, Jaipur -302002.

….Respondent-Complainant

(5) Appeal No.176/2025
In Complaint No.RAJ-RERA-C-N-2022-5639

Modest Infra Limited through its Director Abhishek Pal Singh S/o Ajay Pal Singh, 4th Floor, Unique Destination, Laxmi Mandir Crossing, Tonk Road, Jaipur- 302015.

….Applicant-Appellant

VERSUS

1. Vinay Kumar Sethi S/o Vimal Kumar Sethi, R/o- B-1301, Samriddhi Towers, Indralok Phase 8, Bhayander East, Thane, Maharashtra- 401105.
2. Megha Sethi W/o Vinay Kumar Sethi, R/o B-1301, Samriddhi Towers, Indralok Phase 8, Bhayander East, Thane, Maharashtra- 401105.

.….Respondents-Complainants

CORAM:

Mr. Justice Madan Gopal Vyas, Hon'ble Chairperson

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

PRESENT:

For appellant : Mr. Atishay Jain, Advocate

For respondent : Mr. Amit Chhangani, Advocate

: Mr. Mohit Khandelwal, Advocate

CORAM:

Mr. Justice Madan Gopal Vyas, Hon'ble Chairperson

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

O R D E R

Reserved on 17th September, 2026:

Pronounced on 29th September, 2026:

Per: Justice Madan Gopal Vyas, Hon'ble Chairperson

The captioned appeals have been filed under Section 44 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "RERA Act, 2016") against the impugned orders dated 28/07/2023, 28/01/2025 and 24/07/2025 passed by the Rajasthan Real Estate Regulatory Authority, Jaipur (hereinafter referred to as the "Regulatory Authority"), in Complaint Nos.RAJ-RERA-C-N-2022-5742, RAJ-RERA-C-N-2022-5743, RAJ-RERA-C-N-2022-57434, RAJ-

RERA-C-N-2022-5745 and RAJ-RERA-C-N-2022-5639. Since the issue involved in these appeals are common hence, they are being decided by this common order.

2) The appeals are time barred by 694 and 695 days as per the reports of the Registry and an application has also been filed under Section 44(2) of the RERA Act, 2016, seeking condonation of the delay in filing the appeals seeking the following relief:-

> *"In view of the foregoing, it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to:*
>
> *1. Condone the delay of 756 days in filing the accompanying appeal in the interest of justice and equity;*
>
> *2. Allow the appellant's Application and proceed with the appeal on merits;"*

3) Mr. Atishay Jain, learned counsel appearing for the applicant-appellant submits that the delay occurred due to the promoter being involved in extensive pending litigation, which resulted in delay in taking a decision regarding filing of the appeal and completing the necessary documentation. It is further submitted that the appeals involve a strong and meritorious case on merits and that refusal to condone the delay would cause irreparable loss by dismissal of the appeals on technical grounds. The delay was neither wilful nor deliberate, but occurred due to circumstances beyond the appellant's control.

4) *Per contra*, Mr. Amit Chhangani, learned counsel appearing for the respondent vehemently denied all the facts stated by the learned counsel for the applicant-appellant and submits that execution proceedings were initiated on

21/11/2023, in which the appellant participated instead of filing an appeal. On 05/01/2024, the appellant's counsel appeared before the Authority and stated that the Occupancy Certificate was likely to be obtained within a month and that possession would thereafter be handed over with complete amenities. Relying upon the said statement, the Authority adjourned the matter for compliance. It is further submitted that the appellant continued to participate in the execution proceedings and repeatedly sought time on 17/10/2024, 28/11/2024, 24/12/2024 and 09/01/2025. An Additional Affidavit was filed on 05/12/2024. Thereafter, on 24/01/2025, the non-appellant filed a counter-affidavit. On 28/01/2025, arguments were heard and the appellant's plea was rejected, with a direction to comply with the order dated 28/07/2023. Despite several subsequent opportunities being granted on 01/04/2025, 01/05/2025, 20/05/2025, 12/06/2025 and 26/06/2025, the order was allegedly not complied with. The learned counsel for the respondent therefore submits that the appellant, having continuously participated in the execution proceedings, waived his right to challenge the impugned order and cannot now seek condonation of the delay by suppressing such participation. It is admitted that there is a delay in filing the appeal, whereas Section 44(2) of the RERA Act, 2016 prescribes a limitation period of 60 days. It is further contended that the explanation that the delay occurred due to excessive pending litigation does not constitute sufficient cause for condonation of such an inordinate delay. The appellant has approached the Tribunal without disclosing the complete facts and has failed to establish any bona fide or justified reason preventing him from

filing the appeal within the prescribed period. Hence, the application for condonation of delay deserves to be rejected.

5) Mr. Mohit Khandelwal, learned counsel for the respondent in Appeal No.176/2025 contends that the appellant has failed to disclose any sufficient or bona fide reason explaining the substantial delay in filing the appeal. The plea of excessive pending litigation is stated to be merely an excuse and reflects negligence on the part of the appellant-promoter rather than any sufficient cause for condonation of delay. The learned counsel for the respondent asserts that the appellant had knowledge of the order dated 28/07/2023 and the consequential execution proceedings pending since 2023, yet failed to challenge the order within the prescribed period. Therefore, the delay is alleged to be wilful and deliberate, with no due diligence or sufficient cause having been demonstrated. Hence, prayed for dismissal of the application for condonation of delay as well as the appeal, along with cost.

6) In support of their arguments, Mr. Amit Chhangani as well as Mr. Mohit Khandelwal, learned counsel appearing for the respondents has placed reliance upon the judgments of the Hon'ble Supreme Court on sufficient cause in ***Basawaraj & Anr. Vs. Special Land Acquisition Officer : (2013) 14 SCC 81,*** valuable and substantive right accrues in favour of decree-holder *in* ***Pathapati Subba Reddy (Died) by L.Rs.. & Ors. Vs. The Special Deputy Collector (LA), 2024 INSC 286*** and merit of appeal alone should not be taken into account while considering application seeking

condonation in ***State of Jharkhand & Ors. Vs. Ashok Kumar Chokhani & Ors. : AIR 2009 SC 1927.***

7) We have heard learned counsel for the parties and perused the material available on record.

8) It is evident from the record that the complaint preferred by Allottee-Respondent was decided by the learned Regulatory Authority with certain directions on 28/07/2023, 28/01/2025 and 24/07/2025, whereas the present appeals have been filed with the inordinate delay without explaining any 'sufficient cause'. There is no document on record to strengthen the argument of the learned counsel for the appellant that the delay was caused due to Bonafide reasons. The explanation that the delay occurred due to excessive pending litigation, does not constitute sufficient cause for condonation of such an inordinate delay.

9) Hon'ble Apex Court stressed that the delay should be condoned only upon showing "sufficient cause" but in the present case, the "sufficient cause" is missing. Merely saying that there is "bonafide delay" and "compromise talks were going" are not grounds for delay condonation without any supporting document. What were those compelling circumstances which prevented the appellant from filing appeal within reasonable time period, have not been explained. The complexity of legal issues including limitation, internal corporate processing and authorization,

preparation of detailed appeal, cannot constitute a “sufficient cause” to condone the inordinate delay in filing of appeal.

10) The Hon’ble Apex Court in ***Basawaraj & Others Vs. The Spl. Land Acquisition Officer : 2013 Supreme (SC) 766***, has defined the word “sufficient cause” with regard to statute of limitation in paras 9 & 13 of the said judgment, as under:-

> *“9. Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any “sufficient cause” from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See: Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee & Ors., AIR 1964 SC 1336; Lala Matadin v. A. Narayanan, AIR 1970 SC 1953; Parimal v.Veena @ Bharti AIR 2011 SC 1150; and Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai AIR 2012 SC 1629.)”*

> *“13. The Statute of Limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale”.*

11) The Hon’ble Apex Court in ***Esha Bhattacharjee Vs. Raghunathpur Nafar Academy : (2013) 12 SCC 649*** has laid down the following principles:-

> *“(i) The concept of liberal approach has to be encapsulate the conception of reasonableness and totally unfettered free play, is not allowed.*

(ii) The conduct, behavior and attitude of a party relating to its negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given total go-bye in the name of liberal approach".

The Hon'ble Apex Court also in ***Thirunagalingam Vs. Lingeswaran & Anr. : 2025 INSC 672***, ruled that delay should not be condoned merely as an act of generosity, and that the pursuit of substantial justice must not prejudice the opposing party. Condoning inordinate delay can prejudice the opposing party, who may have acquired rights or interests in the meantime.

12) Otherwise also, the RERA Act, 2016 enacted by the legislature is a special law in which 60 days limitation is provided to decide the matter as per *proviso* to sub-Section (5) of Section 44 of the Act of 2016, which reads, as under:-

*"**44. Application for settlement of disputes and appeals to Appellate Tribunal-**(5) The appeal preferred under sub-section (1), shall be dealt with by it as expeditiously as possible and endeavor shall be made by it to dispose of the appeal within a period of sixty days from the date of receipt of appeal :*

Provided that where any such appeal could not be disposed of within the said period of sixty days, the Appellate Tribunal shall record its reasons in writing for not disposed of the appeal within that period".

13) Hence, allowing such delay and that too without any justifiable reason, would defeat the very purpose of the RERA Act, 2016, which has been framed to provide substantial justice to the allottees within a reasonable time.

14) Thus, the application seeking condonation of delay filed under Section 44(2) of the RERA Act, 2016 deserves to be rejected and is hereby rejected. The appeals are consequentially dismissed being barred by limitation.

15) There is no order as to costs.

16) The Registry is directed to transmit the amount deposited by the appellant-promoter with this Tribunal under the mandatory compliance of Section 43(5) of the RERA Act, 2016 into the bank account of complainant-respondents, after expiry of limitation period of appeal.

17) The interim order or any other pending Misc. Application, if any, shall stand vacated.

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

Files be consigned to record.

Yudhishthir Sharma,
Member (Judicial)

(Madan Gopal Vyas), J.
Chairperson

Indrajeet/Anil Goyal/Suppl.6-10