

IN THE ANDHRA PRADESH REAL ESTATE APPELLATE TRIBUNAL :: AMARAVATI

TUESDAY, THE TWENTY FOURTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX



CORAM :

THE HON'BLE SRI JUSTICE M. GANGA RAO, CHAIRPERSON
AND
THE HON'BLE SRI MANDALAPU RAMACHANDRA REDDY, M(J)

IA.No.1 /2025

IN

APPEAL REGISTRATION No.52/2025

(against Complaint No.1/2025)

Between:

Vizianagaram Municipal Corporation,
Vizianagaram, rep.by its Commissioner.

....Petitioner

AND

1. Sri Sai Complex Welfare Association,
Rep.by its President, Dr. Gadi Prasad, S/o. Gadi Ramamurthy,,
Door No.1-9-1/49, Sai Complex, Mayuri Junction,
Vizianagaram-535 002.
2. Sri Gorapalli Bhaskara Rao, S/o. Venu Gopala Rao,
R/o. 55-33-13/1, F.No.102, SSV Paradise Apartment,
KRM Colony, Near Venkateswara Temple,
Visakhapatnam P&T Colony (VM),
Visakhapatnam (Urban), Andhra Pradesh-530013.
3. The Andhra Pradesh Real Estate Authority,
Rep.by its Authorized Officer/Director,
CRDA Complex premises, Rayapudi, Guntur District.

....Respondents

APPEARANCE:

For Petitioner : Sri S.LAKSHMINARAYANA REDDY, Advocate
For Respondent No.1 : Ms. TADDI SOWMYIA NAIDU, Advocate
For Respondent No.2 : Sri KONERU PRABHAKAR RAO, Advocate
For Respondent No.3 : Sri Polisetty Bala Venkata Koteswara Rao, SC for AP RERA

PRAYER : Application filed under Section 5 of Limitation Act,1963 before this Tribunal praying to condone the delay of 28 days in filing the appeal against order in Complaint No.1 of 2025 dated:04.08.2025 passed by the 3rd respondent.

The Tribunal made the following:

ORDER:

Contd...2.



I.A.No.1/2025
IN
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(against Complaint No.1/2025)


(Oral Order as per Hon'ble Sri Justice M. Ganga Rao, Chairperson)

1. This Petition is filed Under Section 5 of the Limitation Act,1963 by the Petitioner/Appellant/Official Respondent to condone the delay of 28 days in filing the Appeal Registration No.52 of 2025, against the order passed in Complaint No.1/2025 dated 04-08-2025 by the 3rd respondent, Andhra Pradesh Real Estate Regulatory Authority (for brevity hereinafter called as "the Authority").

2. The Real Estate (Regulation and Development Act,2016 (for brevity hereinafter called as 'the Act') is a special enactment and self-contained code. The provisions of Section 44(2) of the Act deals with the filing of appeals within a specified period of limitation and if any delay occurred, on sufficient cause, the Tribunal may condone the delay on its satisfaction. Hence, the provisions of limitation Act have no application to the proceeding under the Act. This petition ought to have been filed under the provision of Section 44(2) proviso of the Act. Mere filing the petition under wrong provision of law, same could not be thrown out in view of the law laid down by the Hon'ble Supreme Court of India. *CM*




3. The petitioner contends that the Order passed in complaint No.1/2025 dated 04-08-2025 was received on 18-08-2025 in the Tappal receiving section of the appellat Corporation. The petitioner wanted to prefer an appeal against the order before this Tribunal, but staff of the corporation was informed that the petitioner received only xerox copy of the order and certified copy of the order is required to file Appeal. As such, the staff of the petitioner applied for certified copy of the order on 27/10/2025 through the letter of the counsel dated 25-10-2025. On such letter, the 3rd respondent Authority issued certified copy of the order passed in Complaint No.1/2025 dated 04-08-2025. Thereafter, complying the statutory requirements, the appeal is filed before this Tribunal with a delay of 28 days. The petitioner further states that the delay is neither willful nor deliberate, but delay occurred only due to administrative reasons. If the delay is not condoned, the petitioner/appellant corporation would suffer irreparable loss and injury.

4. Sri S. Lakshminarayana Reddy, learned Counsel for the petitioner/appellant, while reiterating the averments of the affidavit filed in support of the petition would contend that the petitioner/appellant corporation received only xerox copy of the order passed in Complaint No.1/2025, dated 04-08-2025. The delay of 28 days occurred in filing the appeal for obtaining the certified copy of the order under appeal and for administrative reasons. There is no negligence on the part of the petitioner/appellant in preferring the appeal and he further states that the order under Appeal is not 

sustainable in law and the 3rd respondent Authority passed the order without jurisdiction. The court has to ensure that owing to some delay on the part of the party to the appeal miscarriage of justice should not take place. In support of his contentions, the learned counsel for the appellant placed reliance on the following judgments.

- (i) Surendra G.Shankar & Another Vs. Esque Finamark Pvt.Ltd & Others, Dilip Kumar Vs. Esque Finamark Pvt Ltd and Others, passed in Civil Appeal No.928 of 2025 and 929/2025 dated:22-01-2025 of Hon'ble Supreme Court of India.
- (ii) Mool Chandra Vs. Union of India and another, passed in Civil Appeal Nos.8435-36 of 2024, dated:05-08-2024 of Hon'ble Supreme Court of India Reported in (2025) 1 SCC 625.
- (iii) Union of India Vs. Amrit Lal Manchanda and another, passed in Criminal Appeals Nos.223 and 224 of 2004 dated:16-02-2004 of Hon'ble Supreme Court of India reported in (2004) 3 SCC 75.
- (iv) P.V.Narayana Vs. APSRTC, Hyderabad, passed in WA.No.1411 of 2012 and WP.Nos.6449 of 2011 and 16435 of 2012 and batch dated:15-02-2013 of the Hon'ble High Court of A.P., at Hyderabad reported in 2013 (4) ALD 386 (FB).

Learned counsel for the Petitioner/Appellant would contended that there is no negligence on the part of the petitioner/appellant in preferring the appeal and 



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sufficient reasons are explained for the delay. The 'sufficient cause' has to be judged in pragmatic manner so as to advance cause of justice. The 1st respondent, Sri Sai Complex Welfare Association has not filed any Counter. Ms. Taddi Sowmya Naidu, learned Counsel appeared for the Respondent No.1 could contend that the petition may be considered on its own merits.

5. We, have considered the submissions of the Counsel for the petitioner/appellant and the contesting respondent, have considered the facts and circumstances of the case. We have carefully considered the law laid down by the Hon'ble Supreme Court of India and the Hon'ble High Court of Andhra Pradesh on the decisions reliance placed by the learned counsel for the Petitioner/Appellant, wherein the Hon'ble Supreme Court based on the factual matrix of the case, held that while considering applications for condonation of delay, 'sufficient cause' for the delay needs to be considered to do substantial justice, the court has to adopt liberal, justice oriented approach in determining the 'sufficient cause'. The principle on which the court refuses relief on the ground of laches and delay is that the rights accrued to others by the delay in filing the petition should not be disturbed, unless there are justifiable reasons for the delay, because court should not harm innocent parties if their rights had emerged on the delay on the part of the petitioner. Unreasonable delay could not be condoned. The reasons for the 28 days delay are satisfactorily explained to this Tribunal stating that the petitioner/appellant corporation received only (M)

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xerox copy of the order passed in Complaint No.1/2025, dated 04-08-2025. On instructions, applied for certified copy of the order and after obtaining the certified copy of the order, the petitioner preferred the appeal with delay of 28 days. We see no negligence on the part of the petitioner.

6. The provisions of Section 44(2) and proviso enables the Tribunal to entertain the Appeal after expiry of 60 days. If it is satisfied that there was sufficient cause for not filing it within that period.

- (i) The Tribunal could entertain the appeal filed even after expiry of 60 days. If it is satisfied that there is a sufficient cause for not filing the appeal within the prescribed period by condoning the delay.
- (ii) The Tribunal has to exercise its discretionary power given under the provision of law judiciously. The petitioner/appellant has shown sufficient cause for filing the appeal with delay to enable the Tribunal to condone the delay of 28 days and to do substantial justice. That is the precise reason why elastic expression, sufficient cause is implied in the provision of law so as to subserve the end of justice.

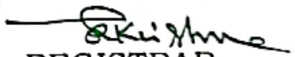
7. Hence, when substantial justice and technical considerations are pitted against each other, cause of substantial justice has to be preferred to that of the technicalities in as much as, no party can ever claim a vested right, when injustice is being done, all due to delay in approaching the Court by the other party. Considering the submissions of the petitioner/appellant, we found that



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there is no negligence on the part of the petitioner/appellant in filing the appeal with a delay of 28 days and the delay is sufficiently explained. We have satisfied with the sufficient cause explained in the petition for the delay. Even the connected Appeal Nos.3/2025 and 5/2025 filed against the order passed in Complaint No.1/2025, dated 04-08-2025 are pending before this Tribunal for adjudication. For the reasons stated above, the delay of 28 days is condoned and the petition is Allowed.

8. Accordingly, the Registry is directed to number the Appeal Registration No.52/2025, if it is otherwise in order and post along with the above pending Appeal No.3/2025 and Appeal No.5/2025 on 10-03-2026 for hearing.

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