



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.53/2025
(against Complaint No.41/2024)**

Between:

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

....Petitioner

1. Sri Sattaru Venkata Sanyasi Rao, S/o.Narayana,
Appala Naidu, R/o. Flat No.TF 09, SVR Apartments,
Opp: District Hospital, Cantonment, Vizianagaram-3.

2. M/s. Venkateswara Constructions,
Rep.by its Managing Partner,
Kovvuri Sri Bala Venkata Subhramanyeswara Reddy,
Second Floor, VIP Road, CBM Compound, Visakhapatnam.

3. M.V.V.Satyanarayana Rao, 7-9-6, Sambamurthy Road,
Kakinda Rural, Kakinada-533 004. East Godavari District.

4. Visakhapatnam Metropolitan Region Development Authority,
Rep.by its Commissioner, Visakhapatnam.

5. 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 Nos.2&3 : Sri B.SUDHAKAR KUMAR, Advocate

For Respondent No.5 : 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.41 of 2024 dated:04.08.2025 passed by the 5th respondent.

The Tribunal made the following:

ORDER:

Contd...





I.A.No.1/2025


IN

APPEAL REGISTRATION No.53/2025
(against Complaint No.41/2024)

(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 preferring the Appeal i.e., Appeal Registration No.53 of 2025 filed against the order passed in Complaint No.41/2024 dated 04-08-2025 by the 5th respondent Andhra Pradesh Real Estate Regulatory Authority (for brevity hereinafter called as "the Authority").

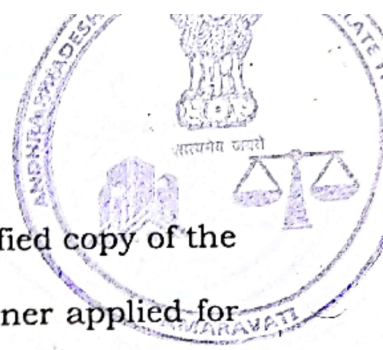
2. The Real Estate (Regulation and Development Act,2016 (for brevity hereinafter called as 'the Act') is a special enactment and self-contained code. The provisions of Section 44(2) of the Act deals with the filing of appeals within a specified period of limitation and if any delay occurred, on sufficient 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.

3. The petitioner contends that the Order passed in complaint No.41/2024 dated 04-08-2025 was received by the appellant Corporation on 18-08-2025 in the Tappal receiving section of the appellant Corporation. The petitioner wanted to prefer an appeal before this Tribunal but staff of the corporation was informed 

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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 on 27/10/2025 through the letter of the counsel dated 25-10-2025. On such letter, the 5th respondent Registry issued certified copy of the order passed in Complaint No.41/2024 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 and delay occurred only due to administrative reasons. If the delay is not condoned, the petitioner/appellant corporation would suffer irreparable loss and injury.

4. The 1st Respondent filed counter stating that he preferred Appeal No.04 of 2025 on 18-05-2025 against the order dated:04-08-2025 passed in Complaint No.41 of 2024 by the authority against the Petitioners/Appellants, Respondents Nos.2 and 3 in the complaint, in so far as not imposing the penalty on the respondents U/s. 61 of the Act. It is further stated that the Appeal Registration No.53 of 2025 along with the petition to condone the delay of 28 days in preferring the appeal. The appeal filed U/s.44(1) of the Act needs to be filed within 60 days under the provision of Section 44(2) of the Act from the date on which copy of the direction or order or decision made by the authority or Adjudicating Officer is received. But the order was passed in Complaint No.41 of 2024 on 04-08-2025. The Appeal ought to have been preferred by the 






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Petitioners/Appellants after receiving the copy within 60 days period of limitation as provided in the Section 44(2) of the Act.

5. 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.41/2024, 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 5th 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. 

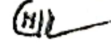
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(iv) P.V.Narayana Vs. APSRTC, Hyderabad, passed in WA.No.1411 of 2012 and WP.Nos.6449 of 2011 and 16435 of 2012 and batch dated:15-02-2013 of the Hon'ble High Court of A.P., at Hyderabad reported in 2013 (4) ALD AMARAVATI 386 (FB).



6. 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 sufficient reasons are explained for the delay. The 'sufficient cause' has to be judged in pragmatic manner so as to advance cause of justice.


7. The learned counsel Ms.Taddi Sowmya Naidu, for the 1st Respondent would contend that the delay of 28 days in filing Appeal is not properly explained and day to day delay needs to be explained to the satisfaction of this Tribunal. She relied on the following decisions in support of her contention.

- (i) Majji Sannemma Alias Sanyasirao Vs. Reddy Sridevi and others passed in Civil Appeal No.7696 of 2021, dated:16-12-2021 of Hon'ble Supreme Court of India reported in (2021) 18 SCC 384.
- (ii) In another case Basawaraj and another Vs. Special Land Acquisition Officer passed in Civil Appeal No.6974 and of 2013 and Civil Appeal No.6975 of 2013 dated:22-08-2013 of Hon'ble Supreme Court of India reported in (2013) 14 SCC 81.
- (iii) Union of India and another vs. Jahangir Byramji Jeejeebhay (D) Through his Lr reported in 2024 SCC Online SC 489. 



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8. We have considered the submissions of the learned Counsel and the facts and circumstances of the case, we found that the Petitioner/Appellant has shown sufficient cause that the petitioner/appellant corporation served only xerox copy of the order passed in Complaint No.41 of 2025 dated:04-08-2025. Thereafter, after obtaining the certified copy of the order, preferred Appeal with a delay of 28 days, which is not unreasonable delay, there is no negligence on the part of the petitioner. The sufficient cause has to be judged in pragmatic manner so as to advance substantial cause of justice. There is no dispute with regard to the principal of law laid down by the Hon'ble Supreme Court. The decisions relied on by the counsel for the Respondent No.1, Ms. Sowmya Naidu, are based on the facts and circumstances of the case.

- (i) In the case of Majji Sannemma Alias Sanyasirao Vs. Reddy Sridevi and others passed in Civil Appeal No.7696 of 2021, dated:16-12-2021, the Petitioners preferred Second Appeal with huge delay of 1011 days and the said delay was condoned by the Hon'ble High Court having satisfied with the sufficient cause. Then the Apex Court, on appeal, found that the delay was condoned by the High Court without sufficient cause for the huge delay of 1011 days. The condonation of delay of 1011 days is bad in law and set-aside the High Court order, by allowing the Special Leave Petition.
- (ii) In another case of Basawaraj and another Vs. Special Land Acquisition Officer passed in Civil Appeal No.6974 and of 2013 and Civil Appeal No.6975 of 2013 dated:22-08-2013 reported in (2013) 14 SCC 81, held that "sufficient cause" cannot be liberally interpreted if negligence, 

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inaction or lack of Bonafides is attributed to the party and in a case a party has acted with negligence, lack of bonafides or there is inaction then there cannot be any justified ground for condoning the delay even by imposing conditions. It is further held that if courts start condoning delay where no sufficient cause is made out by imposing conditions then that would amount to violation of statutory principles and showing utter disregard to legislature.

- (iii) In the case of Union of India and another Vs. Byramji Jeejeebhay (D) Through his Lr reported in 2024 SCC online SC 489, the Apex Court held that "delay should not be excused as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. The appellants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in this case".

9. There is no dispute with regard to the law laid down by the Apex Court. But in the present case there is no negligence and Petitioner/Appellant bonafidely acted and filed the Appeal with delay of 28 days. In present case no prejudice is caused to the 1st Respondent in entertaining the Appeal by condoning the delay of 28 days. The connected Appeal No.04/2025 is also pending for adjudication. There is small delay, which is sufficiently explained to the satisfaction of this Tribunal.

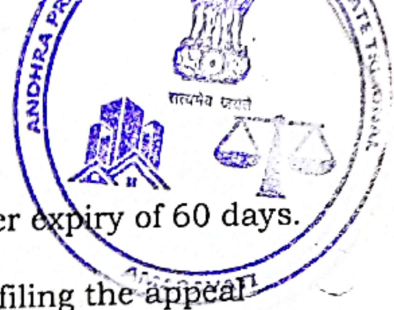
10. We have considered the submissions of the Counsel for the petitioner/appellant and the contesting respondent, have considered the facts and circumstances of the case. We have carefully considered the law laid down (M)



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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 and counsel for the respondent, 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 xerox copy of the order passed in Complaint No.41/2024, 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.

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



- (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.

12. 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 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.4/2025 and 6/2025 filed against the order passed in Complaint No.41/2024, 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. *ML*



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Accordingly, the Registry is directed to number the Appeal Registration No.53/2025, if it is otherwise in order and post along with the above pending Appeal No.4/2025 and Appeal No.6/2025 on 10-03-2026 for hearing.

B/o
R.K. Srinivas
REGISTRAR