

IN THE ANDHRA PRADESH REAL ESTATE APPELLATE TRIBUNAL AT 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 No.6/2025
(against Complaint No.41/2024)

Between:

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

2. M.V.V.Satyanarayana Rao,
D.No. 7-9-6, Sambamurthy Road,
Kakinda Rural, Kakinada-533 004.
East Godavari District.

.....Petitioners

AND

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

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

4. The Andhra Pradesh Real Estate Authority,
Rep.by its Authorized Officer/Director,

CRDA Complex premises, Rayapudi, Guntur District.Respondents

APPEARANCE:

For Petitioners : Sri B.SUDHAKAR KUMAR, Advocate

For Respondent No.1 : Ms. TADDI SOWMYIA NAIDU, Advocate

For Respondent No.2 : Mr. S.LAKSHMINARAYANA REDDYU, Advocate

For Respondent No.4 : Sri Polisetty Bala Venkata Koteswara Rao, SC for RERA

PRAYER : Application filed under Section 5 of Limitation Act,1963 before this Tribunal praying to condone the delay of 13 days in filing the appeal against order in Complaint No.41 of 2024 dated:04.08.2025 passed by the respondent No.4.

The Tribunal made the following:

ORDER:


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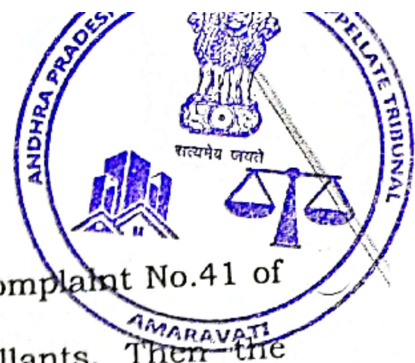


I.A.No.1/2025
IN
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(against Complaint No.41/2024)

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

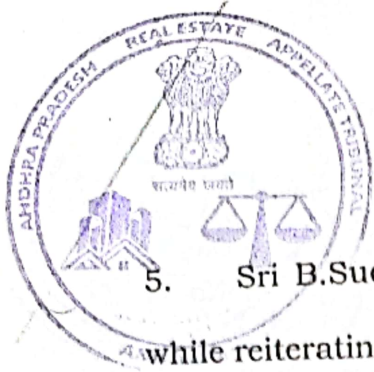
1. This Petition is filed U/s. 5 of the Limitation Act, 1963 to condone the delay of 13 days by the petitioners/appellants in filing the Appeal No.6 of 2025 filed against the order dated 04-08-2025 passed in Complaint No.41 of 2024 by the Andhra Pradesh Real Estate Regulatory Authority (for brevity hereinafter 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 petitioners contend that the authority passed the Order in complaint No.41/2024 on 04-08-2025. The copy of the order was not received by the Petitioners/Appellants from the authority. The Petitioners/Appellants received Whats App notices on 18-11-2025 from the appellants/complainants counsel in 

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the Appeal No.04 of 2025 filed against the order passed in Complaint No.41 of 2024 dated:04-08-2025 and against the Petitioners/Appellants. Then the Petitioners/Appellants obtained certified copy of the order from the authority and filed the appeal. The delay was occurred due to non receipt of the copy of the order from the authority. The delay of 13 days in filing the appeal is neither willful nor deliberate. If the delay of 13 days in preferring the appeal against the order passed in Complaint No.41 of 2024 is not condoned the petitioner 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 Petitioners/Appellants after receiving the copy within 60 days period of limitation as provided in the Section 44(2) of the Act. *CM*



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5. Sri B.Sudhakar Kumar, learned counsel for the Petitioners/Appellants, while reiterating the averments of the affidavit filed in support of the petition for condonation of delay of 13 days in preferring the appeal, would contend that copy of the order passed in Complaint No.41 of 2024, dated:04-08-2025 by the authority was not received. After obtaining the certified copy of the order, the appeal is filed. The delay is neither willful nor wanton and there is no negligence on the part of the Petitioners/Appellants. There is a small delay of 13 days, if the delay is condoned no prejudice would be caused to the contesting respondent and sufficient reasons are given to condone the delay. The averments made in the counter are very formal and unsustainable in the eye of law. The legal position explained in the counter is not applicable to the present petition and the facts of the case.

6. The learned counsel Ms.Taddi Sowmya Naidu, for the 1st Respondent would contend that the delay of 13 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. *CMK*



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(iii) Union of India and another vs. Jahangir Byramji Jeejeebhoy, (D)

Through his Lr reported in 2024 SCC Online SC 489.

7. 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 he has not received the copy of the order of the Authority passed in Complaint No.41 of 2024, dated:04-08-2025 from the Authority. But, he came to know about the passing of the order, when Whats App notices received on 18-11-2025, sent by the Appellant counsel in Appeal No.04 of 2025 filed against the order passed in Complaint No.41 of 2024 dated:04-08-2025 and against the Petitioner/Appellant. Thereafter, after obtaining the certified copy of the order, preferred Appeal No.06 of 2025 with a delay of 13 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



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the delay was condoned by the High Court without sufficient cause explanation 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, 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". *GN*

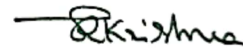


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8. There is no dispute with regard to the law laid down by the Apex Court. But in the present case there is no negligence and Petitioner/Appellant bonafidely acted and filed the Appeal with delay of 13 days. In present case no prejudice is caused to the 1st Respondent in entertaining the Appeal No.06 of 2025 by condoning the delay of 13 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. Hence the delay of 13 days is condoned.

9. Accordingly, IA.No.01 of 2025 in Appeal No.06 of 2025 is Allowed and post the Appeal No.06 of 2025 along with the pending Appeal No.04 of 2025 on 10-03-2026 for hearing.

B/o



REGISTRAR