

**BEFORE THE MAHARASHTRA REAL ESTATE
APPELLATE TRIBUNAL MUMBAI**

M.A. No. 616/23 (Delay)

In

32) Appeal No. AT00600000174701/23

Har Narayan Singh Bisht

...Applicant

V/s.

Skystar Buildcon Pvt. Ltd.

...Non-applicant

Adv. Mr. Hitendra Parab for Applicant

Adv. Mr. Rupesh Geete for Non-applicant

**CORAM : SHRI SHRIRAM. R. JAGTAP, MEMBER (J), &
DR. K. SHIVAJI, MEMBER (A)**

DATE : 23rd April, 2024

(THROUGH VIDEO CONFERENCE)

1] Advocate Mr. Rupesh Geete submits that the Non-applicant has filed reply to delay condonation application. We have heard learned counsel for the respective parties.

M. A. No. 616/2023

1] By Misc. Application No.616/2023, the Applicant has prayed to condone delay of 45 days caused in preferring the instant Appeal on the grounds enumerated in the application. The Non-applicant has stiff opposition to the application on the ground that the explanation offered by Applicant for condonation of delay is not satisfactory. It is well settled principle of law that 'sufficient cause' should receive liberal consideration so as to advance substantial justice when delay is not on account of any dilatory tactics, want of bonafide, deliberate or negligence on the part of Applicant/ Appellant. Besides, there is no presumption that delay in approaching the Court is always deliberate. It must be remembered that in every case of delay, there can be some

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lapse on the part of litigant concerned. That alone is not enough to turn down the plea of Applicant and shut door against the Applicant. If explanation does not smack of malafide or is not put forth as a part of dilatory strategy, it is guided that Court must show utmost consideration to the suitor. After considering the submissions advanced by the Advocates appearing for respective parties and the material produced on record, we are of the view that the grounds put forth by the Applicant for condonation of delay are sufficient. There is no material on record to show that the Applicant has malafidely preferred the captioned Appeal after expiry of period of limitation. It is well settled position of law that lis is to be decided on merits. Therefore, we are of the view that Applicant has satisfactorily established that he had sufficient cause for not preferring the Appeal within the period of limitation. Therefore, we proceed to pass the following Order.

Order

- (i) Misc. Application No.616/2023 is allowed.
- (ii) Delay of 45 days stands condoned.

In Appeal

- 1] Advocate Mr. Rupesh Geete seeks time to file reply.
- 2] Granted
- 3] Stand over to 6th August, 2024 for filing reply.


(DR. K. SHIVAJI)


(SHRIRAM. R. JAGTAP)