

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

**MISC. APPLICATION NO. 393/2023 (delay)  
IN  
APPEAL NO. AT006000000154507 OF 2023**

Mr. Rajesh Desai & Ors.

... Applicants

Vs

CCI Projects Pvt. Ltd.

... Non-applicant

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*Adv. Pooja Gaikwad for Applicants.*

*Adv. Abir Pate for Non-Applicant.*

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

**DATE : 26<sup>th</sup> September, 2023.**

**(THROUGH VIDEO CONFERENCING)**

We have heard learned counsel for respective parties.

2. By Misc. Application No. 393 of 2023, the Applicants have prayed to condone delay of 7 days on the grounds set out in application mainly on the grounds that they are senior citizens and they have old age ailments.

3. Non-Applicant has filed reply to delay condonation application. Non-Applicant has stiff opposition to the application. The Non-Applicant has contended that the grounds put forth by applicants are not

*Signator*

genuine and no supporting documents with respect to their old age ailments are filed on record.

4. We have given thoughtful consideration to the submissions advanced by advocates appearing for respective parties. It is not in dispute that the applicants are senior citizens, therefore, possibility cannot be ruled out that they have some old age ailments. We are of the view that merely because the applicants have not produced medical papers to strengthen their contentions with regard to their old age ailments that does not mean that they were not having health issue at the relevant time. Therefore, considering the contentions of the applicants we are of the view that the grounds put forth by applicants for condonation of delay are sufficient. There is no material on record to show that applicants have malafidely preferred captioned appeal after expiry of period of limitation. Moreover, there is nothing on record to show that those was dilatory tactics on the part of applicants. It to be noted that it is well settled position of law that lis is to be decided on merits. Therefore, we are of the view that the applicants have satisfactorily established that they had sufficient cause for not preferring appeal within the period of limitation. We, therefore, proceed to pass the following order.

*Spent*

**Order**

1. Misc. Application No. 393 of 2023 is allowed.
2. Delay of 7 days is condoned.
3. cost will abide in main cause.

**IN APPEAL**

1. Adv. Abir Patel seeks time to file reply.
2. Stand over to 8<sup>th</sup> December 2023 for filing reply by Respondent.

  
**(DR. K. SHIVAJI)**  
**(SHRIRAM R. JAGTAP)**

vk/-