

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**APPEAL EXECUTION NO. 8 OF 2024**

(Against the Order dated 08/12/2023 in Complaint No. EA/295/2019 of the State  
Commission Chandigarh)

1. PARSVNATH DEVELOPERS LIMITED  
REG. OFFICE AT; PARSVNATH TOWER, NEAR  
SHAHDARA METRO STATION, SHAHDARA, DELHI-  
110032

.....Appellant(s)

Versus

1. MR. ABHINAV SHARMA S/O. LATE SH. HARBANS LAL  
R/O. 37-B, ASHOK NAGAR, AMBALA CANTT-133001  
2. THE CHAIRMAN, CHANDIGARH HOUSING BOARD  
8, JAN MARG, SECTOR - 9, CHANDIGARH

.....Respondent(s)

**BEFORE:**

**HON'BLE MR. SUBHASH CHANDRA,PRESIDING MEMBER  
HON'BLE DR. SADHNA SHANKER,MEMBER**

FOR THE APPELLANT :

**Dated : 14 May 2024**

**ORDER**

For the Appellant      Appearance Not Marked

**ORDER**

**PER SUBHASH CHANDRA**

1. Heard the Learned Counsel for the Appellant.
2. Alongwith the Appeal, an application IA no.2684 of 2024 has been filed by the Appellant seeking condonation of delay of 10 days in the filing of the appeal. However, according to the Registry the delay is of 39 days.
3. The ground taken for seeking condonation of delay is that the impugned order was pronounced on 08.12.2023 and the same was not uploaded on the official website and the company came to know about the order when the appellant received the certified copy of the order on 15.12.2023. Thereafter the appellant filed the present appeal with a delay of 10 days, i.e., 15.01.2024. The appellant submits that the local counsel had sent the complete file which was duly received by the appellant company in the last week of December 2023. In the first week of January 2024, the appellant company handed over the complete book to the advocate to file the appeal and thereafter the appeal was filed with this Commission on 15<sup>th</sup> February 2024. The appellant submits that the delay in filing the appeal was neither

intentional nor deliberate but occasioned due to the aforesaid facts and hence he prays that the delay be condoned.

4. The explanation provided by Counsel for the Appellant is not based on any evidence warranting the delay. The State Commission had passed order after proceedings in which the appellant was duly represented. The application does not provide reasonable explanation. The delay of 39 days therefore cannot be said to have been satisfactorily explained.

5. It is seen that the appellant was represented in the proceedings in the Consumer Complaint before the State Commission. The argument advanced by the appellant that the orders were not upheld cannot be accepted since the appellant was represented through their counsel before the State Commission, hence, the cause shown is not sufficient. The present appeal appears to have been filed with the objective of delaying the implementation of the order of the State Commission, on this ground also, the cause shown is not sufficient.

6. In *State Bank of India vs B S Agriculture Industries* (I) (2009) 5 SCC 121 decided on March 20, 2009, it has been held by the Hon'ble Supreme Court that:

“It would be seen from the aforesaid provision that it is preemptory in nature and requires the consumer forum to see before it admits the complaint that it has been filed within two years from the date of accrual of cause of action. The consumer forum, however, for the reasons to be recorded in writing may condone the delay in filing the complaint if sufficient cause is shown. **The expression, ‘shall not admit a complaint’ occurring in Section 24 A is sort of a legislative command to the consumer forum to examine on its own whether the complaint has been filed within the limitation period prescribed thereunder.**

12. As a matter of law, the consumer forum must deal with the complaint on merits only if the complaint has been filed within two years from the date of accrual of cause of action and if beyond the said period, the sufficient cause has been shown and delay condoned for the reasons recorded in writing. In other words, it is the duty of the consumer forum to take notice of Section 24 A and give effect to it. **If the complaint is barred by time and yet, the consumer forum decides the complaint on merits, the forum would be committing an illegality and, therefore, the aggrieved party would be entitled to have such order set aside.”**

[Emphasis added]

7. The Hon'ble Apex Court has laid down that the settled legal proposition of law of limitation under the Consumer Protection Act has to be applied with all its rigour when the statute so prescribes, though it may harshly affect a particular party. The Appellant has not been able to provide adequate and sufficient reasons which prevented him to approach this Commission within the limitation.

8. The Hon'ble Supreme Court has also held that party who has not acted diligently or remained inactive is not entitled for condonation of delay. The Hon'ble Supreme Court in *R. B. Ramlingam vs. R. B. Bhavaneshwari*, I (2009) CLT 188 (SC) has also described the test for determining whether the petitioner has acted with due diligence or not and held as under:

"We hold that in each and every case the Court has to examine whether delay in filing the special appeal leave petitions stands properly explained. This is the basic test which needs to be applied. The true guide is whether the petitioner has acted with reasonable diligence in the prosecution of his appeal/petition."

9. Condonation of delay is not a matter of right and the applicant has to set out the case showing sufficient reasons which prevented them to come to the Court/Commission within the stipulated period of limitation. The Hon'ble Supreme Court in ***Ram Lal and Ors. Vs. Rewa Coalfields Limited***, AIR 1962 Supreme Court 361 has held as under:

"It is, however, necessary to emphasise that **even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right**. The proof of a sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the Court by Section 5. If sufficient cause is not proved nothing further has to be done; the application for condoning delay has to be dismissed on that ground alone. If sufficient cause is shown then the Court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bona fides may fall for consideration; but the scope of the enquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the Court may regard as relevant."

[Emphasis added]

10. The burden is on the applicant to show that there was sufficient cause for the delay. The expression 'sufficient cause' has been discussed and defined by the Hon'ble Supreme Court in the case of ***Basawaraj & Anr. Vs. The Spl. Land Acquisition Officer***, 2013 AIR SCW 6510 as under:

"Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of *bona fide* on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. **The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose.** (See: *Manindra Land and Building Corporation Ltd. V. Bhootnath Banerjee & Ors*, AIR 1964 SC 1336; *LalaMatadin V. A.Narayanan*, AIR 1970 SC 1953; *Parimal V. Veena alias Bharti* AIR 2011 SC 1150 L2011 AIR SEW 1233); and *ManibenDevraj*

Shah V. Municipal Corporation of Brihan Mumbai, AIR 2012 SC 1629: (2012 AIR SCW 2412).

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**It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds.** “A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim “*dura lex sed lex*” which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.

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The law on the issue can be summarized to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of *bona fide* on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. **In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamount to showing utter disregard to the legislature”.**

[Emphasis supplied]

**11.** Further, in *Anshul Aggarwal Vs. New Okhla Industrial Development Authority*, (2011) 14 SCC 578, the Hon’ble Supreme Court has advised the Consumer Forums to keep in mind while dealing with such applications the special nature of the Consumer Protection Act. The Hon’ble Supreme Court has held as under:

“It is also apposite to observe that while deciding an application filed in such cases for condonation of delay, **the Court has to keep in mind that the special period of limitation has been prescribed under the Consumer Protection Act, 1986 for filing appeals and revisions in consumer matters and the object of expeditious adjudication of the consumer disputes will get defeated if this court was to entertain highly belated petitions filed against the orders of the consumer foras.**”

[Emphasis supplied]

**12.** The purpose of Section 24 A is to ensure that the provisions of the Consumer Protection Act, 1986 as a beneficial legislation are not diluted through challenges which cause cases to be prolonged through litigation even in Consumer Fora. The justification for the condonation of delay in the instant case is only an attempt to delay the implementation of an order of the State Commission as there is no evidence brought on record to substantiate the application for consideration. Cause shown is therefore not found to be sufficient.

**13.** In view of the above, we do not find any reason to condone the delay which has not been satisfactorily explained. The application for condonation of delay is accordingly dismissed. As a consequence, Appeal is also dismissed *in limine* being barred by limitation.

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**SUBHASH CHANDRA**  
**PRESIDING MEMBER**

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**DR. SADHNA SHANKER**  
**MEMBER**