

**BEFORE THE MAHARASHTRA REAL ESTATE
APPELLATE TRIBUNAL, MUMBAI
Misc. Application No. 264/19 (Delay)
In
Appeal No. AT006000000031741**

Mr. Nitin Shewale & Anr. .. Applicants

Versus

M/s. Sanklecha Constructions Pvt. Ltd. & Ors. .. Non-applicants

Adv. Akshay Kapadia i/b Rahul Kadam for Applicants.

Adv. Abhishek Pungliya for Non-applicants.

**CORAM : SUMANT M. KOLHE, MEMBER (J)
S. S. SANDHU, MEMBER (A)**

DATE : 11th January, 2021

(THROUGH VIDEOCONFERENCING)

**ORDER BELOW MISC. APPLICATION NO. 264/19 IN
APPEAL NO. AT006000000031741**

[PER: SUMANT KOLHE, MEMBER (J)]

Application for condonation of delay arises out of following facts.

Applicants have filed Appeal and challenged the order dated 29th May, 2019 passed by Chairperson MahaRERA in Complaint Nos. CC001000000000100 and CC001000000000102.

There is delay of 41 days in filing the Appeal. Applicants have contended that during the hearing of Complaints, the Chairperson had suggested the Applicants to take recourse to Section 7 and Section 8 of RERA for the time being. According to Applicants, they were shocked to know that in the month of July, 2019 learned Chairperson had passed impugned order on 29th May, 2019 and disposed of the Complaints. Applicants further contended that impugned order was not conveyed to them or their advocate. According to Applicants they immediately applied for certified copy of the impugned order on 1st August, 2019 and received it on 16th August, 2019. Applicants have contended that they immediately preferred Appeal after getting the certified copy and there was no intentional and deliberate delay in preferring the Appeal. Applicants therefore prayed for condonation of delay and have filed affidavit in support of grounds submitted for condonation of delay.

u/s

2. Non-applicants have filed reply and resisted the application for condonation of delay. Non-applicants have contended that Applicants have failed to offer sufficient cause for not making enquiries regarding status of Complaint or order passed therein even for two months after hearing. It is contended that Applicants were not punctual in filing the Appeal and grounds for delay are submitted as an afterthought. They alleged that false grounds are made out

in the application for condonation of delay. They prayed for rejection of the application.

3. Following points arise for our determination.

POINTS

- i) Whether Applicants have sufficient cause for condonation of delay?
- ii) What order?

4. Our findings on the points for the reasons stated below are as under.

FINDINGS

- i) Affirmative
- ii) As per final order

yes

REASONS

5. Impugned order is passed on 29th May, 2019. Admittedly, there is a delay of 41 days in challenging the said impugned order in this Appeal. It is revealed from para 4 of the impugned order that the learned Chairperson explained to Applicants that since the project is standstill, the Applicants should form an association and explore the possibility of invoking provisions of Section 7 & 8 of RERA to complete the project. The learned Chairperson further gave directions in para 5 of the impugned order to Non-applicants to handover the list of Allottees of the said project to Applicants within 30 days from the date of the said order to