



2026:DHC:7692-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 13.08.2026
Pronounced on: 10.09.2026

CNR No. DLHC010728772025

+ **FAO(OS) 108/2025, CM APPL. 61132/2025, CM APPL.
48566/2026**

KRISHNA REAL ESTATE ENTERPRISES PVT. LTD.

.....Appellant

**Through: Mr. Amit Raval, Sr. Adv. with
Mr. Akash Gupta, Mr. Shiv
Shankar, Advs.**

versus

MR. GURCHARAN SINGH SYAL & ORS.Respondents

**Through: Mr. Asheesh Jain, Sr. Adv. with
Mr. Adarsh Kumar Gupta, Mr.
Vishal Gupta, Advs.**

CORAM:

HON'BLE MR. JUSTICE VIVEK CHAUDHARY

HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

CM. APPL. 61130/2025 (4 Days delay in filing)

CM. APPL. 61131/2025 (163 Days delay in re-filing)

1. The present applications, being CM. APPL. 61130/2025 (seeking condonation of delay of 4 days in filing the Appeal) and CM. APPL. 61131/2025 (seeking condonation of delay of 163 days in re-filing the Appeal), have been filed by the Appellant, in connection with the accompanying FAO(OS) No. 108 of 2025.



2. The accompanying Appeal in FAO(OS) No. 108 of 2025 arises out of the impugned Order dated 03.02.2025 passed by the learned Single Judge of this Court in I.A. No. 10274 of 2016 in CS(OS) No. 1662 of 2015, whereby the learned Single Judge allowed the application filed by the Respondents seeking return of plaint filed by the appellant under Order VII Rule 10 of the Code of Civil Procedure, 1908 (“CPC”) and returned the plaint of the Appellant on the ground of lack of territorial jurisdiction, with liberty to file the same before the Court of competent jurisdiction. The limitation period for filing an intra-court appeal from a learned Single Judge of this Court to the Division Bench is 30 days in terms of Article 117 of the Limitation Act, 1963. Accounting for the time taken in obtaining the certified copy of the impugned Order, the limitation for filing the Appeal expired on 04.03.2025. The Appellant, however, filed the accompanying Appeal only on 08.03.2025, thereby incurring a delay of 4 days in filing the Appeal. Accordingly, CM. APPL. 61130/2025 was filed for condonation of this delay of 4 days.

3. Upon filing of the Appeal on 08.03.2025, the Registry of this Court raised objections *qua* defects in filing on 10.03.2025. Thereafter, the Appellant undertook to cure various defects raised by the Registry from time to time, including defects pertaining to translation of vernacular documents, service upon a caveator, and correction of indexing. Ultimately, the Appeal was accepted by the Registry on 23.09.2025, and directed to be listed on 24.09.2025. The delay in re-filing was attributable to the Appellant's change of counsel



around April 2025, the intervening summer vacation which required time to coordinate with the previous counsel and the Registry's objections and on the ground of collecting legible and better copies of the documents/annexures filled along with the accompanying Appeal. Consequently, CM. APPL. 61131/2025 was filed for condonation of the delay of 163 days in re-filing the Appeal.

4. Learned Senior Counsel for the Appellant submits that the delay of 4 days in filing the Appeal arose out of genuine and unavoidable circumstances, and is neither deliberate nor attributable to any negligence. It is pointed out that the delay is occasioned by the time genuinely consumed in compiling, procuring, and organising the voluminous documents forming part of the record of the underlying Suit, which was necessary for proper preparation and filing of the Appeal. Further submits that no prejudice has been caused to the Respondents by the delay and thus the same should be condoned.

5. *Per contra*, learned senior counsel for the Respondents opposes the applications, and submits that they are wholly devoid of merit and fail to disclose any "sufficient cause" within the meaning of Section 5 of the Limitation Act, 1963. Further states that the Appeal was in fact filed only on 23.09.2025, and not on 08.03.2025 as claimed, making the real delay 201 days and the explanations offered are vague and appear to be afterthoughts to cover up a lack of diligence on the part of the Appellant. It appears that the filing was done solely to delay the limitation period, without any genuine intent to pursue the matter diligently, and with the sole object of evading the statutory timelines.



6. Heard learned senior counsel for the parties at length and perused the material placed on record.

7. The limited question before this Court at this stage is whether sufficient cause has been shown to justify condonation of the delay of 4 days in filing the Appeal and the delay of 163 days in re-filing the same. It is made clear that this Court is not, at this stage, going into the merits of the accompanying Appeal in FAO(OS) No. 108 of 2025.

8. Section 5 of the Limitation Act, 1963 provides that any appeal may be admitted after the prescribed period if the appellant satisfies the Court that he had sufficient cause for not preferring the Appeal within such period. The provision is a beneficial and remedial one, intended to serve the ends of justice for providing relief in cases where delay is caused for sufficient *bona fide* reasons, and the discretion vested in the Court thereunder must be exercised in a principled, consistent, and equitable manner.

9. The Supreme Court in ***Collector, Land Acquisition, Anantnag v. Mst. Katiji & Ors., (1987) 2 SCC 107***, held that although every day of delay needs some explanation, courts shouldn't be overly strict or technical about it, the rule has to be applied sensibly and practically. What matters is not how long the delay was, but whether a good reason has been given for it. If that reason counts as "sufficient cause," the delay should be condoned. The Court's main concern is to make sure real justice is done, and that procedural rules don't end up punishing someone who acted in good faith. The relevant extract of the judgment reads



"3. The legislature has conferred the power to condone delay by enacting Section 5 [Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.] of the Indian Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on "merits". The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice — that being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other courts in the hierarchy. And such a liberal approach is adopted on principle as it is realized that:

"1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a nondeliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence,



or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so."

10. As regards the delay of 4 days in filing, the Appellant has explained that the same was occasioned by the time consumed in compiling and organising the voluminous documents forming part of the record of the underlying Suit. This explanation is found to be *bona fide* and not a tactic to gain time, a delay of this magnitude, unaccompanied by any indication of *mala fides*, calls for a liberal and pragmatic approach.

11. The Full Bench of this Court in ***Pragati Construction Consultants v. Union of India &Y Anr., 2025 SCC OnLine Del 636***, held that Courts should adopt a pragmatic and liberal approach towards curable procedural defects, while simultaneously recognising that certain fundamental defects may render a filing *non-est*. The relevant extract of the judgment reads

95 "In this regard, it needs no emphasis that procedural defects cannot be allowed to triumph the substantive rights of a party, particularly since in view of our aforesaid observations, Section 34 of the A&C Act is the only remedy for a party aggrieved by an Arbitral Award. The said right, therefore, should not be negated on procedural technicalities and hence, for describing an application under Section 34 of the A&C Act as non-est, a more liberal view in favour of the party filing the same should be taken. Mere procedural errors or defects, thus, would not render the filing of an application under the Section



34 of the A&C Act to be treated as a non-est filing. Even in general law, objections like the pleadings not being properly signed on each and every page, or there being a defect in the affidavit, or verification, are treated as procedural and curable defects. Stand alone, therefore, they cannot be treated as defects which would make an application filed under Section 34 of the A&C Act to be declared as non-est. It is only cumulatively, and that too only after the Court finds that the above defects have been left by the petitioner while filing the application under Section 34 of the A&C Act with a mala fide intent of only stopping the period of limitation from running, without there being an actual initial intention of having the application listed before the Court for hearing, the Court may still find the application so filed to be non-est. Needless to state, it would surely depend on the facts and circumstances in each case; and there cannot be a straight jacket formula to determine whether any of the above-mentioned defects or combination thereof or how many such defects would render an application filed under Section 34 of the A&C Act to be declared as non-est."

12. As regards the delay of 163 days in re-filing, this Court finds that a substantial part of the delay is attributable to the Registry and the way it conducted the scrutiny of the filing. On the first scrutiny dated 10.03.2025, eleven defects were noted, namely (i) scrutiny charges of Rs. 100/-; not deposited ;(ii) the opening sheet not being filed completely filled in and placed before the Appeal; (iii) Columns 10-12 of the opening sheet improperly filed; (iv) the correct provision of law not stated in the heading/opening sheet; (v) the correct advalorem court fee not affixed as stamp paper; (vi) no averment on how the Appeal, then filed as an RFA, was maintainable; (vii) objections on correct classification/nomenclature of the case kept



open for later; (viii) fair typed copies of dim, illegible and handwritten annexures not filed; (ix) the petition/application misclassified and wrongly denominated; (x) no brief description of annexures in the main/fresh index and (xi) non-service of the Appeal upon the Respondents/their counsel through e-mail with mobile numbers. The Appellant re-filed on 29.05.2025, that is, after a gap of approximately eighty days. This gap is attributable, in substantial part, to the Appellant's change of counsel around April 2025. Having found that the previous counsel was, without sufficient reason, taking an unreasonably long time to attend to the matter, the Appellant chose to discontinue that engagement and thereafter engaged a new counsel. This step shows a genuine effort to correct the situation and not to delay it. Since changing counsel is the most drastic measure available to an Appellant in such circumstances, this step itself supports the Appellant's *bona fides*. Any failure on the part of the previous counsel, serious enough to warrant discontinuance of his engagement, cannot, in these circumstances, be attributed to the Appellant.

13. It may further be noted that, upon re-filing on 29.05.2025, only two of the eleven defects, namely those pertaining to completion of the opening sheet and Columns 10 to 12 thereof, stood cured. The remaining nine defects continued to subsist till 24.06.2025 and the filling was accordingly marked defective once again on 30.06.2025; during the intervening period, this Court was closed for summer vacation, which also contributed to the delay in taking timely steps for curing the defects and re-filing the Appeal. After a further re-filing on



22.07.2025, the objection dated 23.07.2025 were raised for the first time requiring to file English translations of certain documents, something that should have been pointed out along with the first set of defects, a fact that was within the Registry's knowledge, but was not mentioned in any of the earlier rounds. Likewise, after re-filing on 05.08.2025, the objection dated 12.08.2025 raised a defect about a pending caveat and the need to serve the caveator. Again, after re-filing on 14.08.2025, the objection dated 20.08.2025 raised a defect of indexing correction, which could well be marked by the Registry on the very first filing. It was only after the sixth re-filing, on 23.09.2025, that the Appeal was finally found to be in order.

14. As per Delhi High Court Rules Practice & Procedure Volume V Chapter I Part-A (a) Rule 5, the Appellant is entitled to a reasonable time to remove the defects and re-file, being 7 days at a time and 30 days in the aggregate from the date the Registry raises objections. The object of prescribing such a period is to afford the Appellant a reasonable opportunity to cure the defects pointed out by the Registry. In the present case, the Appeal underwent as many as six rounds of re-filing, which is relevant while assessing the extent to which the delay can fairly be attributed to the Appellant.

15. Even otherwise, when the Registry scrutinizes a filing, it is expected to point out visible defects in its first report only so that the appellant can cure them and has a fair and reasonable time to re-file. It is pertinent to mention that, in the present case itself, a period of 32 days was taken by the Registry, from the re-filing of the Appeal on



29.05.2025 till the reporting of defects on 30.06.2025, instead of the defects being reported within a reasonable time. When objections are raised in parts and defects that were not mentioned earlier which were already surfacing are raised at a later stage, the appellant does not get a real and fair chance to complete compliance, and is instead pushed into repeated rounds of scrutiny and re-filing. This piecemeal manner of raising objections, has materially added to the delay now in question. It is further noted that, cumulatively, a period of 48 days out of 163 days' delay in re-filing is attributable to the time taken by the Registry. Where the Registry itself does not point out all defects at the outset, it would not be fair to place the entire burden of the resulting delay on the Appellant alone. Though, the Appellant could have acted a little faster at some stages, an equal share of the responsibility falls on the manner in which the scrutiny was carried out. The Appellant should not lose a valuable right of appeal because of a process that was only partly within its control.

16. In the present case, the balance leans in favour of the Appellant. The explanation for the delay remains uncontroverted, the conduct of the Appellant shows *bona fides*. As already noted above, the Appellant had also taken steps to change his counsel, which further supports this finding. In view of the above discussion, this Court is satisfied that the Appellant has shown sufficient cause, both for the delay of 4 days in filing the Appeal and the delay of 163 days in re-filing the same.



17. Accordingly, both CM. APPL. 61130/2025 and CM. APPL. 61131/2025 are allowed. The delay of 4 days in filing and the delay of 163 days in re-filing FAO(OS) No. 108 of 2025 are hereby condoned.

18. The applications stand disposed of.

FAO(OS) No. 108/2025 & CM APPL. 61132/2025, CM APPL. 48566/2026

19. The present Appeal has been filed under Section 10 Of The Delhi High Court Act, 1966 along with Order XLIII Rule 1 read with Section 151 Of CPC against the Order Dated 03.02.2025 passed by the learned Single judge of this court in I.A. No. 10274 Of 2016 In C.S. (O.S.) No. 1662 Of 2015, titled as "*Krishna Real Estate Enterprises Pvt. Ltd. Vs. Gurcharan Singh Syal & Ors.*" whereby the learned Single Judge allowed the application filed by the Respondents under Order VII Rule 10 CPC and returned the plaint of the Appellant for want of territorial jurisdiction.

20. Admit.

21. Let the digital record of the learned Single Judge be requisitioned.

22. List on 30.11.2026.

VIVEK CHAUDHARY, J.

RENU BHATNAGAR, J.

SEPTEMBER 10, 2026/bs /tr