

Emaar India Ltd.
Vs.
Sunil Kumar and another
CM Nos. 1135 and 1391 of 2023
In Appeal No. 375 of 2023

Present: Mr. Kunal Dawar, Advocate with
Ms. Tanika Goyal, Advocate for the appellant.
Mr. Nilotpall Shyam, Advocate
for the respondent.

CM Nos. 1135 and 1391 of 2023

These are applications seeking condonation of 289 days' delay in filing and 19 days in refiling of the appeal. Same are supported by an affidavit of Mr. Manish Mahajan, authorised representative of the appellant.

Learned counsel for the respondent has opposed the prayer for condonation.

We have heard learned counsel for the parties and given careful thoughts to the case.

Along with the appeal pre-deposit amount of Rs. 40,97,013/-has been made. This deposit is required to be made by the appellant-promoter to protect the interests of the allottees subject to final outcome of the appeal (see para No.122-- *M/s. Newtech Promoters and Developers Pvt. Ltd., Vs. State of UP & Others etc. 2021 SCC online SC 1044*).

Though making of pre-deposit would not *per se* be a ground for condonation of delay, the reasons given in the affidavit have to be considered in each case. In the eventuality, the appellant shows sufficient cause for condoning the delay, the plea may be accepted.

In the instant case, contents of the application shows that delay in filing the appeal occasioned on account of certain procedural formalities in obtaining the approval from management.

In the given facts and circumstances of the case, we feel that delay in filing the appeal needs to be condoned subject to payment of costs of Rs.20,000/- to be remitted to the allottees.

The applications are allowed. Delay in filing and re-filing the appeal is condoned.

Main appeal

Issue notice for 24.07.2025.

Process be issued.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Rakesh Manocha
Member (Technical)

May ,2025/mk