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FEBRUARY - 2025, VOLUME: I

### Case Law

SC Sets Aside High Court Order: Delay  
Condonation in RERA Appeals Clarified

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## JUDICIAL INSIGHT

### Case Title

*SC Sets Aside High Court Order: Delay Condonation in RERA Appeals Clarified*

# SC SETS ASIDE HIGH COURT ORDER: DELAY CONDONATION IN RERA APPEALS CLARIFIED

### ***Facts of the Case:***

1. The appellants, claiming to be allottees in a real estate project ("Lodha Venezia" & "Lodha Azzuro"), filed complaints before the Maharashtra Real Estate Regulatory Authority (RERA), Mumbai, seeking possession of their flats.
2. The complaints were filed against Esque Finmark Pvt. Ltd. (R1) and Macrotech Developers Ltd. (R2, formerly Lodha Developers Ltd.).
3. RERA, Mumbai, discharged R2 from the proceedings on 23.07.2019, citing no privity of contract between the complainants and R2.
4. The complaints were dismissed by a common order dated 16.10.2019.
5. The appellants filed appeals before the Maharashtra Real Estate Appellate Tribunal (Appellate Tribunal) on 10.12.2019, along with a delay condonation application for challenging the 23.07.2019 order.
6. The Appellate Tribunal dismissed the appeals on 01.12.2022, citing limitation grounds and finding no sufficient cause for condonation.
7. The appellants then approached the Bombay High Court, which dismissed their second appeals on 23.08.2023.

### ***Issues Involved:***

Whether the Bombay High Court erred in refusing to condone the delay in filing appeals before the Maharashtra Real Estate Appellate Tribunal and in commenting on the merits of the case instead of limiting its review to the delay condonation issue.

### ***Supreme Court Verdict:***

1. The Supreme Court held that the High Court should have only examined the correctness of the Appellate Tribunal's refusal to condone the delay, rather than commenting on the merits of the RERA orders.
2. Since the High Court acknowledged that, in normal circumstances, the delay ought to have been condoned, it should have set aside the order rejecting condonation and restored the appeals for a full hearing.



# JUDICIAL INSIGHT

3. The Court set aside both the Bombay High Court's order and the Appellate Tribunal's order rejecting delay condonation.
4. The appeals were restored before the Appellate Tribunal, which must now decide them on their merits, without being influenced by prior observations.
5. The Supreme Court clarified that it expressed no opinion on the merits of the RERA orders dated 23.07.2019 and 16.10.2019.

The ruling reinforces that appellate courts must strictly adhere to their scope of review—here, limited to deciding whether a delay should be condoned. The decision also underscores that procedural fairness should not be overlooked in cases affecting substantive rights.

#### **CASE TITLE:**

*Surendra G. Shankar & Anr. Vs. Esque Finamark Pvt. Ltd. & Ors. [Civil Appeal No. 928 of 2025 out of SLP (Civil) No. 25540 of 2023]*  
*Dilip Kumar Vs. Esque Finamark Pvt. Ltd. & Ors. [Civil Appeal No. 929 of 2025 out of SLP (Civil) No. 24959 of 2023]*

## Case Title

*SC Sets Aside High Court Order: Delay Condonation in RERA Appeals Clarified*

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