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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14583 of 2024

(In the matter of an application under Articles 226 and 227 of the Constitution of India, 1950).

M/s. Kkreation Associates, *Petitioner(s)*
Bhubaneswar

-versus-

The Registrar, NCDRC & Anr. *Opposite Parties*

Advocates appeared in the case through Hybrid Mode:

For Petitioner(s) : *Mr. Biswajit Das, Adv.*

For Opposite Party (s) : *Mr. P. K. Parhi, DSGI*
Along with
Mr. G. K. Nayak, CGC
Mr. R. K. Rout, Adv.

CORAM:

DR. JUSTICE S.K. PANIGRAHI

DATE OF HEARING:-28.01.2025

DATE OF JUDGMENT:-13.03.2025

Dr. S.K. Panigrahi, J.

1. The present Writ Petition challenges the order dated 03.05.2024, passed by the National Consumer Disputes Redressal Commission (NCDRC), New Delhi whereby the Revision Petition No. 679/2024, preferred by the Petitioner, was dismissed.



2. The Petitioner further challenges the order dated 05.07.2022, passed by the State Consumer Disputes Redressal Commission (SCDRC), Odisha, Cuttack, in F.A. No. 436/2015 and F.A. No. 555/2015.

I. FACTUAL MATRIX OF THE CASE:

3. The brief facts of the case are as follows:
- (i) The Petitioner and Opposite Party No. 2 executed a Sale-Purchase Agreement on 27.02.2012 for the purchase of Flat No. A-04 in 'The Country Side' Project, Bhubaneswar, for a total consideration of ₹32.76 lacs. However, the Opposite Party No. 2 paid only ₹18 lacs to the Petitioner, which included a booking amount of ₹3 lacs and subsequent instalments.
- (ii) Pursuant thereto, a Tripartite Agreement was executed among the Petitioner, the Opposite Party No.2, and Punjab & Sind Bank for a housing loan of ₹25 lacs. As per the Agreement, the Opposite Party No. 2 was required to contribute ₹7.76 lacs from his personal funds, while the Bank was to directly disburse ₹25 lacs to the Petitioner. However, contrary to the agreed terms, the Bank remitted the loan amount to the Opposite Party No. 2, who subsequently defaulted on his payment obligations.
- (iii) Thereafter, the Opposite Party No.2 unilaterally rescinded the Agreement citing deficiency in service, and, vide Legal Notice dated 22.04.2013, sought a refund of ₹20 lacs.
- (iv) In response, the Petitioner declared the Opposite Party No.2 a defaulter and, vide Cancellation Letter dated 23.05.2013, asserted that any refund would be subject to requisite deductions. Subsequently, by letter dated



28.05.2013, the Petitioner apprised the Bank of the Opposite Party No.2's default and sought directions regarding the termination of the Agreement.

- (v) The Bank, in its Reply dated 31.05.2013, disclosed that the Opposite Party No.2 had availed loan instalments of ₹7 lacs on 27.09.2012 and ₹8 lacs on 04.10.2012. However, upon scrutiny, the Petitioner ascertained that these amounts was not remitted to them, whereupon the misappropriation was formally reported to the Bank on 04.06.2013.
- (vi) Notwithstanding repeated requests dated 11.06.2013, 22.06.2013, and 01.07.2013, seeking details of the Opposite Party No.2's loan transactions, the Bank refrained from furnishing the requisite information, citing technical constraints. Meanwhile, the Opposite Party No.2, vide letter dated 05.05.2013, reaffirmed his withdrawal from the transaction.
- (vii) On 26.07.2013, the Petitioner issued a Banker's Cheque of ₹8 lacs, which was encashed by the Bank on 29.07.2013 towards settling the Opposite Party No.2's loan account.
- (viii) The District Commission vide Order dated 05.08.2015 in Consumer Complaint No. 242/2013, held that the dispute arose due to scheduled payment demands and that no deficiency of service was attributable to the Petitioner. It further observed that allegations of construction defects were unsubstantiated and that the Opposite Party No.2 had breached both the Sale-Purchase Agreement and the Tripartite Agreement. Nonetheless, the Commission directed the Petitioner to



refund ₹12 lacs with interest from 04.06.2013 and imposed litigation costs of ₹1,000/-.

- (ix) Aggrieved by the Order dated 05.08.2015 in Consumer Complaint No. 242/2013, an appeal was preferred before the SCDRC. Vide Common Order dated 05.07.2022 in FA No. 436/2015 & FA No. 555/2015, the SCDRC modified the refundable amount to ₹10 lacs, instead of ₹12 lacs, but enhanced the interest rate to 12% per annum from the date of the Order until realization. It further directed that if payment was not made within 45 days, the interest rate would escalate to 18% per annum.
- (x) In compliance with the said Order, the Petitioner issued a Demand Draft dated 03.08.2022. However, on 05.08.2022, the Petitioner filed MC-512/2022, seeking six months' time to pay the remaining ₹5 lacs in five instalments at 12% per annum, commencing from September 2022.
- (xi) Amid severe financial distress, the Petitioner arranged ₹13,40,000 from family sources and issued a Demand Draft dated 12.09.2022, requesting the Opposite Party No.2 to accept it as full and final settlement. However, upon the Opposite Party No.2's refusal to cooperate, the Petitioner filed MC No. 960/2022 on 30.12.2022, seeking a directive for the Opposite Party No.2 to accept ₹18,40,000 in compliance with the Final Order dated 05.07.2022.
- (xii) The Petitioner sought the indulgence of the SCDRC to withdraw MC No. 960/2022, with liberty to approach the NCDRC for appropriate legal recourse. Opting to challenge the State Commission's Order dated 05.07.2022 on merits, contending that both the District and State Commission's orders lacked jurisdiction and merit, the Petitioner was



granted permission to withdraw MC No. 960/2022 vide Order dated 10.11.2023.

- (xiii) The NCDRC, vide Order dated 03.05.2024, dismissed the Petitioner's application for condonation of delay and, consequently, rejected Revision Petition No. 679/2024 dated 22.02.2024.
- (xiv) Aggrieved by the dismissal of the Revision Petition, the Petitioner has preferred the present Writ Petition, contending that the denial of an opportunity for a full hearing constitutes a violation of the principles of natural justice.

II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

4. Learned counsel for the Petitioner earnestly made the following submissions in support of his contentions:
- (i) The Petitioner contended that the NCDRC erroneously dismissed the Application for Condonation of Delay and, consequently, the Revision Petition No. 679/2024 dated 22.02.2024, by incorrectly recording it as a Second Appeal. This mischaracterization resulted in a grave miscarriage of justice.
- (ii) The Petitioner contended that although the order of the SCDRC was passed on 05.07.2022 and the Revision Petition No. 679/2024 was filed before the NCDRC on 12.03.2025, in the intervening period, the Petitioner had been pursuing the matter before the State Commission, which consumed significant time. Since the delay primarily occurred due to time spent in the State Commission itself, it was in good faith and for bona fide reasons. Therefore, the Petitioner should be entitled to the benefit of such exclusion while computing the period of limitation



- (iii) The Petitioner contended that the Second Appeal was filed in the NCDRC on 22/23.11.2023 and the Revision petition has been filed in its place subsequently as liberty was granted by the NCDRC. Therefore, the Revision Petition ought to be deemed to having been filed on 22/23.11.2023 which was the date of filing of Second Appeal and the period thereafter should not be counted towards delay. In such circumstances, the delay that occurred deserves to be condoned, as it was neither deliberate nor intentional.
- (iv) The Petitioner contended that the assumption that the filing of another miscellaneous case was inexplicable if the Petitioner doubted the SCDRC jurisdiction is erroneous. Furthermore, the conclusion that the withdrawal of two miscellaneous cases precluded the Petitioner from approaching the NCDRC within time disregarding the factual complexities of the case.
- (v) The Petitioner contended that the NCDRC failed to consider that the period between the SCDRC order dated 05.07.2022 and the filing of Second Appeal No. 05/2024 was attributable to procedural complexities and fraudulent conduct perpetrated against the Petitioner.
- (vi) The Petitioner contended that the NCDRC rigidly applied the law of limitation instead of adopting a liberal approach, thereby frustrating the ends of justice. It failed to acknowledge the Petitioner's bona fide mistake and genuine reasons for the delay, rendering the dismissal of the Application for Condonation of Delay unjustified.
- (vii) The Petitioner contended that the delay in filing the Revision Petition resulted from exceptional circumstances constituting a 'sufficient cause'.



The first miscellaneous case, seeking an extension of time, was not pressed as the Petitioner was misled into doing so. The second miscellaneous case, which sought directions for the Opposite Party No.2 to accept ₹18.40 lakh through Demand Draft due to the Opposite Party No.2's evasive conduct, was withdrawn upon the Petitioner realizing the fraud perpetrated against them. The Petitioner was unable to invoke the NCDRC's jurisdiction due to a bona fide mistake and a lack of awareness regarding the fraud.

- (viii) The Petitioner submitted that the NCDRC violated the Principles of Natural Justice and the Petitioner's rights under Articles 14, 19, 21, and 300A of the Constitution of India, as well as Regulation 14 of the Consumer Protection Regulations, 2005. The arbitrary dismissal of the Condonation of Delay application and the resultant rejection of the Revision Petition warrant the issuance of a Writ of Certiorari to quash the impugned order and a Writ of Mandamus directing reconsideration under Article 226 of the Constitution.
- (ix) The Petitioner contended that the NCDRC's refusal to consider the impact of fraud on procedural delays resulted in a miscarriage of justice. The Commission's failure to recognize that fraudulent conduct by the Opposite Party No.2 influenced the Petitioner's course of action effectively denied the Petitioner a fair opportunity to present their case, further violating the principles of fairness and equity.

III. SUBMISSIONS OF THE OPPOSITE PARTIES:

5. Per contra, the learned counsel for the Opposite Parties earnestly made the following submissions in support of his contentions:



- (i) While passing the order on the condonation of delay, the NCDRC observed that the Petitioner failed to satisfactorily demonstrate sufficient cause for the delay in filing Revision Petition No. 679 of 2024. The F.A. No. 436 of 2015 and F.A. No. 555 of 2015 were disposed of on 05.07.2022, dismissing the Petitioner's appeal. Consequently, the order dated 05.08.2015, passed by the DCDRC in Complaint Case No. 242 of 2014, was rightly upheld, and the prayer for condonation of delay was rejected.
- (ii) In its impugned order dated 03.05.2024, which has been challenged in the present writ petition, the NCDRC rightly refused to interfere with the order dated 05.07.2022. The Commission noted a delay of 428 days between the order dated 05.07.2022 and the filing of the Second Appeal on 23.11.2023, which the Petitioner failed to satisfactorily explain. Consequently, the Learned Commission correctly dismissed Revision Petition No. 679 of 2024. The Petitioner has not established any justifiable grounds for interfering with the order dated 03.05.2024 through the present writ petition seeking a writ of certiorari.
- (iii) It is a well-settled legal principle that a party seeking condonation of delay must account for the delay from the very first day of the cause of action for filing the revision. In the absence of a satisfactory explanation, the Court, Tribunal, Commission, or Authority cannot condone the delay. This principle has been reaffirmed by the Supreme Court in *State of Madhya Pradesh v. Ram Kumar Choudhary*.¹

¹2024 INSC 932



IV. COURT'S REASONING AND ANALYSIS:

6. Heard Learned Counsels for the parties and perused the documents placed before this Court.
7. This case pertains to the rejection of an application for condonation of delay in filing a revision petition before the NCDRC on the ground that the Petitioner failed to establish 'sufficient cause' for the delay.
8. It is trite in law 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.
9. While judicial and quasi-judicial forums are often inclined to take a liberal approach to ensure that matters are decided on their merits rather than being dismissed on grounds of limitation, such leniency cannot extend to the dilution or circumvention of statutory limitations. The law of limitation serves an essential function in ensuring finality and certainty in legal proceedings. Once an order attains finality, it crystallizes rights in favour of the opposing party, and unless 'sufficient cause' is demonstrated, delay cannot be condoned as a matter of course. The power to condone delay is a judicial discretion that must be exercised with circumspection, and the onus lies squarely on the petitioner to establish a legitimate basis for seeking such indulgence.
10. 'Sufficient cause' necessitates a demonstrable and cogent reason that genuinely prevented the petitioner from approaching the court within the prescribed period. Condonation cannot be granted in cases where delay is attributable to negligence, lack of bona fides, or sheer inaction.



11. In this regard, the Supreme Court in *Basawaraj and Ors. Vs. The Spl.*

*Land Acquisition Officer*² observed as replicated hereinunder: –

“9. Sufficient cause is the cause for which the 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 viewpoint 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 Corpn. Ltd. v. Bhutnath Banerjee* [AIR 1964 SC 1336], *Mata Din v. A. Narayanan* [(1969) 2 SCC 770: AIR 1970 SC 1953], *Parimal v. Veena* [(2011) 3 SCC 545: (2011) 2 SCC (Civ) 1: AIR 2011 SC 1150] and *Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai* [(2012) 5 SCC 157: (2012) 3 SCC (Civ) 24: AIR 2012 SC 1629].)”

²(2013) 14 SCC 81



12. It is further settled that condonation of delay is not a matter of right but a discretionary relief, granted only upon a satisfactory demonstration of sufficient cause. Reaffirming this position, the Supreme Court in *Ram Lal v. Rewa Coalfields Ltd*³, underscored the following:

“12. 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...”

13. At this stage, it becomes imperative to acknowledge the distinct framework of the Consumer Protection Act, 1986, which is designed to ensure swift redressal of consumer grievances. The Act mandates strict adherence to its prescribed limitation periods, reinforcing the legislative intent of expeditious adjudication. Any undue relaxation of these timelines, risks undermining the efficiency and purpose of the consumer dispute resolution mechanism.

³AIR 1962 SC 361.



14. In *Anshul Aggarwal Vs. New Okhla Industrial Development Authority*⁴, the Supreme Court observed:

"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."

15. A perusal of the record reveals that the revision petition, which was dismissed by the NCDRC, arose from an order passed by the SCDRC on 05.07.2022. Subsequent to the passing of the said order by the SCDRC, the petitioners instituted M.C. No. 512 of 2022, which was ultimately dismissed on 06.09.2022 as not pressed. Thereafter, the petitioners once again moved the State Commission by filing M.C. No. 960 of 2022. However, this application too was subsequently withdrawn by the petitioners, and vide order dated 10.11.2023, the same was dismissed as withdrawn.
16. It further appears that the petitioners preferred a second appeal before the NCDRC on 22/23.11.2023, which was also later withdrawn. Following this, the petitioners proceeded to file Revision Petition No. 679 of 2024, from which the present impugned order arises.
17. An examination of the procedural history reveals that the dismissal of the two miscellaneous applications before the SCDRC was not due to any

⁴(2011) 14 SCC 578



jurisdictional defect. The NCDRC noted that the petitioners initially withdrew their first miscellaneous application on the premise that the SCDRC lacked jurisdiction to entertain further proceedings after deciding the appeal. However, if the petitioners believed the SCDRC lacked jurisdiction, their subsequent decision to file another miscellaneous application before the same forum contradicts that belief. This inconsistent approach undermines any claim of 'sufficient cause' for the delay. Upon reviewing the record, this Court finds no infirmity in the NCDRC's reasoning, as it aligns with established principles of limitation jurisprudence.

18. The NCDRC observed that the petitioners failed to offer a sufficient explanation for the considerable delay in filing the revision petition. While the petitioners filed two miscellaneous applications and later withdrew them, such actions do not constitute justifiable grounds for the delay. The substantial delay between the date of the impugned order on 05.07.2022 and the filing of the second appeal on 22/23.11.2023, amounting to a gap of 428 days, cannot be overlooked. The petitioners' filing and subsequent withdrawal of the applications before the SCDRC does not alleviate this delay. The NCDRC correctly concluded that the delay application lacked merit, and this Court concurs with that assessment. The petitioners have failed to offer a reasonable explanation for their inaction, and therefore, the delay cannot be condoned.
19. Upon careful scrutiny, it is clear that the petitioners have failed to provide any justifiable grounds for the significant delay in filing the revision petition. Their inconsistent conduct, coupled with a lack of



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diligence in pursuing their legal remedies, undermines any claim of sufficient cause. The law is clear that it favours those who are diligent in safeguarding their rights within the prescribed time limits. The petitioners' actions reflect a disregard for these principles, and their failure to demonstrate a valid explanation for the delay leaves no room for condoning it.

V. CONCLUSION:

20. In light of the foregoing, this Court finds no infirmity in the NCDRC's finding and emphasizes that the law cannot be bent to accommodate inaction or delay.
21. Accordingly, this Writ Petition is **dismissed**.
22. Interim order, if any, passed earlier stands vacated.

(Dr.S.K. Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated the 13th March, 2025