



**123 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.4126 of 2025 (O&M)
Date of Decision: 03.03.2025

JASPAL KAUR JOHAL AND ANOTHER

.....Petitioners

Versus

M S SHOURYA TOWER PVT LTD AND OTHERS

.....Respondents

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

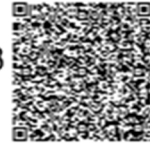
Present: Mr. Saransh Kumar, Advocate,
for the petitioners.

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ANUPINDER SINGH GREWAL, J. (Oral)

The petitioners have challenged the order of the National Consumer Disputes Redressal Commission (for short, the National Commission) dated 16.10.2024 (Annexure P-1), whereby the appeal preferred by the petitioners against the order of the State Consumer Disputes Redressal Commission, Punjab (for short, the State Commission) dated 06.06.2018 (Annexure P-11), has been dismissed on account of delay of 1453 days in preferring the appeal.

2. Learned counsel for the petitioners submits that the petitioners are Non-Resident Indians residing in United Kingdom. They are over 75 years of age. A consumer complaint had been preferred by them before the State Commission, which was being pursued by Sh. Man Singh, who was



the Personal Assistant of their family friend, namely, Sh. Sanjay Dutta. He further submits that said Sanjay Dutta was suffering from cancer and later, he passed away on 21.05.2019. He, therefore, submits that sufficient cause had been made out to condone the delay but the National Commission had erroneously dismissed the appeal preferred by the petitioners vide order dated 16.10.2024 (Annexure P-1) on account of delay and laches. He further submits that there was a delay of around 700 days in preferring the appeal and the period of approximately two years of Covid-19 pandemic ought to have been excluded while computing the period of limitation in terms of the office order issued by the National Commission on 14.01.2022 (Annexure P-16). Therefore, the delay of 1453 days ought to have been condoned by the National Commission.

3. Heard.

4. The petitioners are stated to have booked a flat in the new housing complex namely 'Lotus Tower Surya Enclave' in Jalandhar, which was being developed and constructed by the respondents No.1 and 2. The petitioners had been allotted flat No.502 in 'E-1' Tower and an allotment letter had been issued to the petitioners on 03.05.2008 after the payment of Rs.23,80,548/-. The possession was to be delivered to the petitioners by August, 2012. However, in 2011, the agents of the respondents No.1 and 2 had approached the petitioners and intimated them that construction of the E-1 Tower where the flat was originally allotted to the petitioners, would not take place. In order to redress their grievance, the respondents No.1 and 2 had offered the petitioners an alternative flat No.702 in 'J-1' Tower for an



additional amount of Rs.14,50,000/-. The allotment letter for the alternative flat in 'J-1' Tower was issued on 23.09.2011 and thus, the petitioners are stated to have paid a total sum of Rs.38,30,550/- to respondents No.1 and 2. However, as per respondents No.1 and 2, the petitioners had only made a payment of Rs.14,59,630/- and Rs.1,77,561/- remained to be paid. There was a dispute with regard to the allotment of the flat and the petitioners had preferred a consumer complaint before the State Commission. In their prayer before the State Commission, they sought the following relief against the present respondents;

- (i) to deliver the possession of flat J-1/702 or of any other alternative flat to complainants;
- (ii) further to pay interest @ 12% per annum on the deposited amount of Rs.38,30,550/- from August, 2012 till actual delivery of possession;
- (iii) to pay penal interest @ 18% on deposited amount; to pay compensation of Rs.20,00,000/- for mental harassment, besides cost of litigation.

The State Commission by the order dated 06.06.2018 (Annexure P-11) had partly accepted the said complaint and directed only refund of Rs.14,59,630/- to the petitioners along with interest @ 12% per annum, with a further direction to pay Rs.50,000/- as compensation for mental harassment and Rs.20,000/- as costs of litigation to the complainants.

5. Aggrieved by the said order of the State Commission, the petitioners had challenged it before the National Commission by preferring an appeal on 28.10.2022 alongwith an application seeking condonation of



delay of 1453 days which had occurred in preferring the appeal. The National Commission vide order dated 16.10.2024 (Annexure P-1) had dismissed the first appeal of the petitioners as being barred by limitation.

6. It is true that by the office order dated 14.01.2022 (Annexure P-16), the National Commission, in the light of the order passed by the Supreme Court, had ordered that the period between 15.03.2020 to 28.02.2022 i.e. of Covid-19 pandemic would be excluded while computing the period of limitation in preferring the appeal. However, in the instant case, the order of the State Commission had been passed on 06.06.2018 and the petitioners, thereafter, had a period of almost two years to prefer the appeal, prior to the outbreak of Covid-19 pandemic in March, 2020 but the petitioners did not approach the National Commission at that time. Even, after the period of Covid-19 pandemic i.e. from 15.03.2020 to 28.02.2022 is excluded, the petitioners did not prefer the appeal promptly but had filed it only on 28.10.2022 i.e. after a period of another 8 months.

7. It is thus apparent that the huge delay of almost 4 years has not been sufficiently explained by the petitioners. As a matter of fact, no satisfactory explanation has come forth as to how the petitioners remained unaware of the order passed by State Commission even though the petitioners were represented by their counsel whose arguments were duly heard and considered by the State Commission. The petitioners had authorized the Personal Assistant of one Sanjay Dutta, namely, Man Singh, to pursue the litigation on 20.04.2017, while the case was finally decided by the State Commission on 06.06.2018.



8. However, it is significant to note that this petition has been filed by another Special Power of Attorney holder, namely Shreyas Ranjan, who is a resident of Miramar, Goa, but there is nothing in the petition to indicate as to what is the relationship of the petitioners with the said Shreyas Ranjan and as to when and how he came to be appointed as their Special Power of Attorney, although earlier one Man Singh was appointed as their Special Power of Attorney.

9. It has been stated in the application seeking condonation of delay in filing of the appeal before the National Commission that the petitioners were not contacted by Sh. Man Singh, therefore, they remained under the impression that the consumer complaint was still pending. Although, the State Commission had decided the consumer complaint on 06.06.2018, however, it was only in August, 2022 that they were made aware by the Special Power of Attorney about the dismissal of the consumer complaint.

10. We are, therefore, of the considered view that the petitioner had not been able to sufficiently explain the delay in preferring the appeal before the National Commission. The petitioners ought to have remained vigilant about the proceedings and cannot take the benefit of the matter being pursued by their special power of attorney(s) who allegedly did not inform them about the proceedings and the outcome thereof. Reference can be made to the judgment of the Supreme Court in the case of **Rajneesh Kumar and another Versus Ved Parkash, 2024 INSC 891**, in this regard. The relevant extract of the said judgment is reproduced hereunder:-



“10. It appears that the entire blame has been thrown on the head of the advocate who was appearing for the petitioners in the trial court. We have noticed over a period of time a tendency on the part of the litigants to blame their lawyers of negligence and carelessness in attending the proceedings before the court. Even if we assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a ground to condone long and inordinate delay as the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated at his instance. The litigant, therefore, should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief.”

11. Consequently, we do not find any merit in this petition, which stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

03.03.2025
sandeep

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No