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**Scope Development Projects and Another Vs. Mr. Mani Balraman Gunder,
Men Ambadi Road, Thane**

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Men Ambadi Road, Thane**

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**Court : Maharashtra State Consumer Disputes Redressal Commission SCDRC
Mumbai**

Decided On : Apr-09-2009

**Judge : Justice Shri B.B. Vagyani, Honâ€™ble President Shri S.R. Khanzode,
Honâ€™ble Judicial Member**

**Appeal No. : First Appeal No.1526 of 2008 @ Misc.Application Nos.2150 of 2008
& 2151/2008 (In Consumer Complaint No.279 of 2002)**

Appellant : Scope Development Projects and Another

Respondent : Mr. Mani Balraman Gunder, Men Ambadi Road, Thane

Advocate for Pet/Ap. : Mr. A.A. Kocharekar-Advocate for the Appellant.

Judgement :

Oral Order:

Per Justice Shri B.B. Vagyani, Honble President

Heard Mr.A.A.Kocharekar-Advocate for the appellant.

There is inordinate delay of 226 days in filing the appeal. Therefore, application for condonation of delay is filed. Ld.Advocate has submitted that because of financial

crisis, the appellant could not arrange for Rs.25,000/- to be deposited in the State Commission and therefore, appeal could not be filed in time. Inordinate delay is not at all satisfactorily explained. We are therefore not inclined to condone the delay. Prayer for condonation of delay therefore stands rejected. Misc.application no.2150/2008 for condonation of delay stands rejected.

We also examined the correctness of the order in the light of material placed on record. Agreement for Sale in respect of plot was executed on 4/9/1995. Respondent paid entire consideration of Rs.1,29,160/- to the builder. Respondent also paid Rs.15,501/- to the builder for stamp duty and registration. Builder however failed to deliver possession of the plot to the respondent. Therefore purchaser filed consumer complaint on 29/7/2002. District Consumer Forum by order dated 5/3/2008 allowed the complaint and directed the builder to refund entire money with interest @ 18% p.a. from 28/8/2000. In addition, District Consumer Forum has awarded Rs.30,000/- to the purchaser by way of compensation. Fact remains that the builder failed to deliver possession of the flat to the purchaser in spite of having received the entire consideration. It is also seen from the record that the revenue litigation is also pending. Said litigation is not yet decided. During pendency of the consumer complaint, in 2004 the builder made an offer to the purchaser and showed his readiness to execute Sale deed. However, said offer was not accepted by the purchaser. Purchaser is not bound to accept belated offer. Purchaser has already filed consumer complaint in 2002 for refund of money. Order under challenge is perfectly legal and correct. We do not understand as to why District Consumer Forum has awarded interest from 28/8/2000, when in fact consideration has been paid long back. But complainant has not filed counter appeal. Appeal filed by the builder is without any merits. In the result, we pass following order:-

ORDER

1. Misc. application no.2150/08 for condonation of delay stands rejected.
2. Appeal stands dismissed summarily.
3. Misc. application no.2151/08 for stay stands disposed of.

4. Pronounced and dictated in the open court.
5. Copies of the order be furnished to the parties.

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