

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 1

APPEAL-236/2024

GHAZIABAD DEVELOPMENT AUTHORITY

.....Appellant

Versus

ROHIT GOYAL

.....Respondent

Counsel for Appellant

RISHABH RAJ

Counsel for Respondent

ABHISHEK KHARE

Hon'ble Mr. Justice Suneet Kumar, Chairman

Hon'ble Mr. Devindar Singh Chaudhry, Technical Member

(I.A. 1495/2025; Application for condonation of delay).

1. Heard learned counsels for the parties.
2. The mandate of Section 43(5) of the Act has been made pursuant to CA Certificate. The compliance is satisfactory, accordingly, the objection of the respondent is rejected.
3. The instant appeal has been filed with 1188 days delay. By the instant application, appellant seeks condonation of delay. The impugned order came to be passed on 16.12.2020, the appeal came to be instituted on 18.03.2024. We have carefully perused the affidavit filed in support of the application with the assistance of learned counsel for the appellant.
4. It is submitted that some time was utilized to ascertain and cross-check the payment receipts of the opposite party against the account ledger, subsequently, multiple letters of possession were issued, which was not responded by the respondent. It is further submitted that due to Covid-19 pandemic and subsequent lockdown, the appeal could not be preferred, reference has been made to the decision of Hon'ble Supreme Court in *Suo Motu* Case No. 3/2020, wherein, limitation period of all cases came to be

relaxed until 31.05.2022. The reason thereafter, for the delay in filing the appeal is due to frequent change, transfer and superannuation of various officers of the appellant organization, due to which the filing of the appeal was substantially delayed.

5. Learned counsel for the respondent has placed reliance on the decision rendered by the Hon'ble Allahabad High Court in *Executive Engineer Drainage Division Vs. Ms Ayush Construction and Anr.*[2024:AHC:47636-DB] and submitted that the delay in instituting the appeal is willful and deliberate and no sufficient cause has been furnished for condonation of delay. The Division Bench of Hon'ble High Court placed reliance on the decision rendered by the Hon'ble Supreme Court in State of *Madhya Pradesh & Ors. Vs. Bherulal* [2020 (10) SCC 654], wherein, it has been noted that stereotype explanation with respect of placing the files from one desk to another in a routine manner without suggesting the due diligence exercised by the officer in filing the appeal, would not tantamount to sufficient cause for condoning the delay.

6. The cause shown by the appellant is not satisfactory, rather no reason, whatsoever, has been furnished, explaining the delay. It appears that the delay is willful and deliberate, accordingly, the application for **condonation of delay is rejected**. Consequently, the **appeal is also dismissed**.

7. The amount deposited by the appellant in compliance of mandate of Section 43(5) of the Act, 2016 be transferred/remitted to the concerned account of learned Regulatory Authority. Further we direct the Regulatory

Authority to dispose of the amount during the execution proceedings in accordance with law.

7.1 The functioning of the Tribunal became paperless from January 2022, but the system for depositing payment through online mode by the litigants under different heads could not be made operational and the same was to be deposited by the litigants in the shape of Bank Draft, but subsequently NIC and State Bank of India succeeded in providing solution for making payment under all the heads through online mode and the State Bank of India also agreed to convert the amount deposited by the promoter under Section 43(5) of the Act into fixed deposit indicating complaint number, appeal number etc. within 24 hours for a period of 60 days with auto renewal thereafter, so that after decision in the appeal the amount be released as per direction of the Hon'ble Tribunal along with accrued interest on the said fixed deposit.

7.2 Discussion was made with the officials of the State Bank of India regarding providing benefit of interest on the deposited amount in the pending appeals. SBI also agreed to convert the amount deposited in different appeals, on the details provided by the Tribunal, into Fixed Deposits for a period of 60 days with auto renewal thereafter in the pending appeals. Accordingly, in all the pending appeals of the promoters, the amount deposited in pursuance to the provisions of Section 43(5) of the Act has been converted into fixed deposit in the month of June, 2023.

7.3 The Registry is directed to take steps for redemption of the amount of the fixed deposit in the instant appeal and send the same to the Regulatory Authority to be taken care as per the directions herein above.

7.4 It will be the liability of the beneficiary to pay the income tax on the interest earned on the deposited amount, if any.

(Devindar Singh Chaudhry)

(Suneet Kumar)

Dated: 10.03.2025
SYEDTANVEER