

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 1

APPEAL-100/2023

M/S ANS DEVELOPERS PRIVATE LIMITED;M/S
SHALIMAR LAKECITY PRIVATE LIMITED;

.....Appellant

Versus

RASHMI GUPTARASHMI GUPTA

.....Respondent

Counsel for Appellant
ANURAG SINGH

Counsel for Respondent
VAIBHAV KRISHNA

Hon'ble Mr. Justice (Dr.) D.K. Arora, Chairman
Hon'ble Mr. Sanjai Khare, Judicial Member

Sri Vaibhav Krishna, Advocate appeared on behalf of respondent and submitted that he has filed his vakalatnama on 03.08.2023 on behalf of respondent and he seeks time to move an application for recall of order dated 07.07.2023.

We refused to accept the request of learned counsel for the respondent considering that he has filed his vakalatnama on 03.08.2023 and, if the respondent was to move an application for recall of order dated 07.07.2023, the same ought to have been filed at the time of filing vakalatnama. But after expiry of about 5 ½ months from the date of filing vakalatnama, learned counsel for the respondent wants to move an application for recall of order dated 07.07.2023, which is not acceptable.

Order dated 07.07.2023 indicates that despite time granted, no objection has been filed by the respondent, therefore, case was proceeded ex parte against the respondent.

The order dated 07.07.2023 further reveals that Sri Gautam Johri, Advocate, initially appeared on behalf of respondent on 27.04.2023 and sought 10 days' time for filing objections along with vakalatnama and subsequently, an information was given on behalf of Sri Gautam Johri that he has not received any instructions from the respondent and he may be permitted to withdraw as counsel for the respondent. Consequently, an application was also moved by Sri Gautam Johri on 10.08.2024 seeking permission to withdrawn as counsel for respondent.

The respondent was fully aware about the pendency of the proceedings. Apart from above, the moment when any appeal is uploaded, an auto-generated link goes on the email IDs of the parties registered with the RERA. Similarly, the moment any orders/document is uploaded, a link is generated and goes to the parties and parties can download the memo of appeal alongwith annexure, orders or any other

document. Thus, it cannot be said that the respondent is unaware about the present proceedings.

Therefore, we are of the constrained view that despite being aware of the pendency of the proceedings in the instant appeal and even after appearance of Sri Advocate Gautam Johri, respondent did not choose to file objections, hence the matter was proceeded ex-parte against respondent.

Sri Vaibhav Krishna, Advocate is directed to argue the matter based on the available records and pleadings. For this, we grant 24 hours' time to learned counsel for the respondent.

List this defective consideration on application for condonation of delay and hearing on **18.01.2024**.

(Sanjai Khare)

(D.K. Arora)

Dated: 16.01.2024
MANSINGH72