

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 1

APPEAL-35/2024

BELGRAVIA PROJECTS PRIVATE LIMITED

.....Appellant

Versus

SUNIL KUMAR PANDEY SUNIL KUMAR PANDEY

.....Respondent

Counsel for Appellant

APPLICANT/APPELLANT IN-PERSON

Counsel for Respondent

RISHINDRA VIKRAM SINGH

Hon'ble Mr. Justice Suneet Kumar, Chairman

Hon'ble Mr. Sanjai Khare, Judicial Member

Hon'ble Mr. Rameshwar Singh, Administrative Member

Heard Sri Neeraj Kumar Singh, learned counsel for appellant/applicant and Sri Rishindra Vikram Singh, learned counsel for respondent on application for condonation of delay in filing the appeal.

The impugned order came to be passed on 11.01.2023, which was uploaded on the portal on 17.01.2023. The limitation for filing appeal was until 17.03.2023. The appeal came to be instituted on 16.03.2023. However, certain defects pertaining to documents was pointed out by the Registry which was duly removed. Thereafter repeatedly defects one after the other came to be pointed out which was also removed by the appellant/applicant. That apart, the appellant filed the appeal without complying the mandate of Section 43(5) of the Act i.e. the amount payable to the allottee as directed by the RERA Authority was not deposited in the first instance. After a delay of almost 207 days the appellant/applicant made compliance of Section 43(5) on 19.10.2023 by depositing Rs. 3,70,953/-.

On the matter being taken up on 19.02.2024, it was found that the amount deposited is not in consonance with the direction of learned RERA Authority. The appellant instead of complying the mandate, contested to computation which came to be rejected by this Tribunal vide order dated 28.02.2024. Thereafter the balance amount came to be deposited on 06.03.2024. In this background, learned counsel for respondent submits that the approach of the appellant/applicant in not complying the mandate of Section 43(5) is willful and deliberate with the purpose of stalling the execution proceedings.

Be that as it may, the explanation furnished by the appellant in filing the appeal is sufficient, however, the appeal was filed without complying the mandate of Section 43(5) of the Act appears to be willful. In the circumstances, application for condonation of delay in filing the appeal is allowed subject to cost at Rs.5,000/- to be paid by the appellant to the respondent on or before the next date of hearing.

Registry is directed to convert this defective appeal into regular appeal.

List this case on **18.12.2024** for hearing.

(Rameshwar Singh)

(Sanjai Khare)

(Suneet Kumar)

Dated: 20.11.2024

IRFAN