

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 1

APPEAL-12/2023

DINESH AWASTHI

.....Appellant

Versus

ALPINE INFRAPROJECTS PVT LTD
ALPINE INFRAPROJECTS
PVT LTD

.....Respondent

Counsel for Appellant
ANURAG MISRA

Counsel for Respondent
HIMANSHU HEMANT GUPTA

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

An application for recall of order dated 03.07.2023 was filed by the appellant on 06.09.2023, whereby opportunity for filing reply was closed, as the appellant despite stop order did not choose to file reply. The matter is pending since 15.11.2022. Respondent filed objections on 06.04.2023 and vide order dated 24.04.2023 on the request of Sri Anurag Mishra, learned counsel for the appellant, a week and no more time was granted for filing reply and subsequently while adjourning the proceedings on health ground, taking into consideration that despite stop order appellant did not choose to file reply, opportunity of filing reply of the applicant was closed. Filing the application of recall dated 03.07.2021 establishes the fact of delaying the proceedings. The appellant ought to have filed reply to the objections along with application for recall on 03.07.2023.

This Tribunal has always taken lenient view while recalling the order and accepting the reply and would have taken on record the reply of the appellant, had it been filed along with the application for recall of order. Under Section 44(5) of the Act 2016 there is a clear mandate that endeavour be made to decide or dispose of appeal within 60 days from date of its filing. This mandate could not be achieved without cooperation of the parties.

Hence we do not find any reason to recall the order dated 03.07.2023. Accordingly, the instant application for recall of order dated 03.07.2023 is rejected. Counsel for the parties are directed to make their submissions with respect to challenge to the order of the Regulatory Authority.

Sri Anurag Mishra, learned counsel for the appellant submitted that some other date may be fixed for argument. We deprecate the conduct of learned counsel for the appellant of coming to the Tribunal without preparing his brief.

We impose a cost of Rs. 1/- on learned counsel for the appellant Sri Anurag Mishra for coming to Tribunal without preparation of his brief.

List this appeal for hearing on **22.02.2024**.

Learned counsel for the appellant is advised to appear before the Tribunal after full preparation.

(Sanjai Khare)

(D.K. Arora)

Dated: 19.01.2024
SANTOSHKSHUKLA