

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 2

APPEAL-489/2021

SUNITA AGARWAL

.....Appellant

Versus

TULSIANI CONSTRUCTION AND DEVELOPERS PVT. LTD.

.....Respondent

Counsel for Appellant

FUHAR GUPTA

Counsel for Respondent

SAURABH MISRA

Hon'ble Mr. T.B. Singh, Judicial Member

Hon'ble Mr. K.K. Jain, Technical Member

Case called on.

Ms. Fuhar Gupta, learned counsel for the applicant and Mr. Saurabh Misra, learned counsel for respondent are present.

Heard on the limitation application.

The impugned order was passed by the Regulatory Authority on 21.05.2019 and the same was uploaded on RERA website on 25.05.2019 and thereafter the instant appeal was filed on 12.07.2021. During the course of hearing, learned counsel for the applicant brought to the notice that husband of the appellant Ms. Sunita Agarwal was in Jail since 06.07.2019 to 05.02.2021. During this period the appellant was quite upset and she was making efforts for bail of his father. Ultimately, the husband of the appellant came out from the Jail on 06.02.2021. Learned counsel further submitted that during the period 15.03.2020 to 02.10.2021 Covid-19 Pandemic was prevailing and the Hon'ble Supreme Court has recognized this period in **Suo Motu Petition Writ (Civil) No. 3 of 2020**, in re: **Cognizance for extension of limitation** and on this basis the relaxation has been given to all litigants to file suit or any legal proceedings before any Court or Tribunal after giving due benefit of the said period.

Without entering into the depth of the contents of the limitation application, it is apparently clearly that the instant appeal has been filed with delay of 707 days in view of the provisions of Section 44(2) of the Act, 2016.

Learned counsel for respondent did not deny the period of Covid-19 Pandemic from 15.03.2020 to 02.10.2021 and he also appreciated the submission of the applicant that the husband of the of the applicant was in Jail but he submitted that applicant being in dominating position was having ample facility to file the instant appeal within time.

During the course of the hearing learned counsels for both sides admit that the matter may be decided at an early date on merits and if the Hon'ble Tribunal wants to condone the delay in filing the instant appeal, cost may be imposed on the applicant.

On the basis of the implied consent of learned counsels for parties, and their statement that the matter may be decided at an early date, the application for condonation of delay is **allowed** subject to payment of Rs.10,000/- towards cost, out of which Rs.5000/- shall be paid to the applicant and the rest Rs.5000/- shall be deposited in Tribunal's fund.

The delay in filing the instant appeal is condoned.

Let this defective appeal be registered as **Regular Appeal**.

It was also brought to the notice that pleadings have been exchanged in this case.

Both learned counsels for parties are directed to file list of dates and events as well as the case relied by them after exchanging the same with each other atleast 7 days before the next date of listing.

List this case for on **09.05.2022** for further order.

(K.K. Jain)

(T.B. Singh)

Dated: 04.04.2022
VIJAYKUMAR