

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 1

APPEAL-138/2024

GAURSONS REALTECH PRIVATE LIMITED

.....Appellant

Versus

SHAILENDRA KUMAR AND PRATIBHA

.....Respondent

Counsel for Appellant

Counsel for Respondent

SAMRAT VAISH

MOHIT YADAV

SANGYA NEGI

Hon'ble Mr. Sanjai Khare, Judicial Member

Hon'ble Mr. Rameshwar Singh, Administrative Member

Sri Samrat Vaish, learned counsel for the applicant submitted that the instant case has been filed against the interim order, passed by the Adjudicating Officer on 26.09.2023 whereby the applicants were directed to provide all the amenities, mentioned in the complaint within 30 days and, therefore, no amount is required to be paid to the respondent/allottee in pursuance to the said interim order of the Adjudicating Officer. In view of the aforesaid reasons, an application for waiver to deposit the amount in compliance of Section 43 (5) of the Act has been moved. Submission of the learned counsel for the applicant is that the Adjudicating Officer has travelled beyond his jurisdiction while directing the applicant to develop and complete all the amenities as mentioned in the complaint. It was the job of the Regulatory Authority and the Adjudicating Officer is required to examine the issue of compensation only.

We have examined the submissions of the learned counsel for the applicant and the interim order dated 26.09.2023, passed by the Adjudicating Officer of the Regulatory Authority, whereby the applicant was directed to complete the amenities as mentioned in the complaint of the allottee within 30 days and no amount was required to be paid to the respondent/allottee in pursuance to the said interim order.

In our considered view, the applicant is not required to deposit any amount towards compliance of Section 43 (5) of the Act 2016.

Let notice be issued to the respondent returnable by 21.08.2024.

The Registry will generate a notice for 21.08.2024 and send the same through e-mail to the applicant and his counsel within 48 hours. The applicant after

downloading the notice will send it through speed-post to the respondent annexing copy of application for condonation of delay and memo of appeal and its annexures within three days. The applicant will also send the copy of application for condonation of delay and memo of appeal and its annexures, annexing notice issued by the Tribunal through e-mail to the respondent within three days. The applicant will file an affidavit of service annexing copy of postal receipt and transaction report of e-mail sent to the respondent as well as copy of the track record of the postal department regarding service of notice upon the respondent.

On receipt of the notice, it is open for the respondent to send objections to the application for condonation of delay and grounds of appeal to the applicant and his counsel through e-mail within 10 days. Reply, if any, will be sent by the applicant to the respondent within a week thereafter. The parties/legal representatives are directed to upload their respective objection/reply on the e-portal of the Tribunal immediately thereafter.

List this appeal for orders on **21.08.2024**.

(Rameshwar Singh)

(Sanjai Khare)

Dated: 18.07.2024
IRFAN