

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 2

MISC. CASE-285/2019

RAJNI GUPTA

.....Appellant

Versus

M/SGAYATRI HOSPITALITY & REALCON LTD.

.....Respondent

Counsel for Appellant

MOHSIN KHAN

SHRUTI SAHU

Counsel for Respondent

SIDDHARTH NANDWANI

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

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

Case called on.

None appeared on behalf of applicant.

Mr. Siddharth Nandwani, learned counsel for the opposite party.

Heard on limitation application, which has been moved with the contentions that the impugned judgment and order was passed by the Regulatory Authority on 10.04.2019 which was uploaded on 15.04.2019 on the website of RERA and thereafter the instant appeal has been filed on 03.07.2019. In the application, it is also mentioned that the husband of the applicant, namely Mr. P.L. Gupta, in the month of May, 2019 suffered severe medical consequences and admitted in the Hospital. Dr. advised him complete bed rest, and she is taking care of her husband only because of this the delay has occurred in filing the instant appeal and the same has been filed by the applicant with a delay of 19 days. Lastly in the application it has been mentioned that the delay is neither deliberate nor intentional, therefore, the same may be condoned.

Against the said application, objection has been filed by the opposite party with the contentions that the applicant has no locus to file the instant appeal because as the applicant is not an allottee of the project which is developed by the respondent. Learned counsel for the opposite party further submitted that this is vital issue in the matter.

So far as locus standi to file an appeal by the applicant is concerned, at this stage, we have to decide whether the applicant has filed the appeal with delay or not and as to whether the applicant has any locus to file the appeal or not, as these questions relate to merit of the appeal which can be decided at later stage during hearing of the matter but so far as limitation period is concerned, it is crystal clear from the perusal of the record that the impugned order has been passed on 10.04.2019 and the same has been uploaded on

the website of the RERA on 15.04.2019 and thereafter the instant appeal has been filed on 03.07.2021 whereas as per provisions of Section 44(2) of the Act, 2016 the appeal ought to be filed before 14.06.2019 but the same has been filed with a delay of 19 days on 03.07.2021.

In view of the aforesaid facts, the application for condonation of delay is **allowed**, subject to payment of cost of Rs.500/- which shall be deposited in the Tribunal Fund. Delay in filing the instant appeal is condoned.

Learned counsel for opposite party submitted that pleadings have been exchanged.

Heard, the appeal in part.

Both learned counsels are directed to file the list of dates and events and the cases relied by them after exchanging the same to each other before the next date fixed.

List this case on **08.12.2021** for further arguments.

(K.K. Jain)

(T.B. Singh)

Dated: 20.11.2021
VIJAYKUMAR