

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 2

APPEAL-191/2021

LUCKNOW DEVELOPMENT AUTHORITY

.....Appellant

Versus

SHAMSHAD AHMAD KHAN AND HUMA NASEE

.....Respondent

Counsel for Appellant

Counsel for Respondent

SAURABH MISRA

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

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

Case called on.

Mr. Krishan Kumar Singh holding brief of Mr. Saurabh Misra, learned counsel for appellant and Mr. Shamshad Ahmad Khan, respondent (in person) are present.

Learned counsel for applicant submitted that notice has been served on the respondent and an affidavit of service has been filed, the same is on record.

Learned counsel for respondent submitted that the instant appeal has not been filed within time. He further submitted that he has serious objection but does not want to file objection in writing because the delay in this case in filing the appeal was approximately 8 days before start of Covid-19 Pandemic. He again submitted that if the Hon'ble Tribunal condones the delay, a cost must be imposed on appellant.

Without going into the depth of the contents of the application for condonation of delay supported with an affidavit, it is apparent that the impugned order was passed on 30.12.2019 and the same was uploaded on the website of RERA on 08.01.2020, thereafter the instant appeal was filed on 22.02.2021 after a delay of approximately 341 days in view of provisions of Section 44(2) of the Act, 2016. But before start of Covid-19 Pandemic there was a delay of about 8 days in filing the appeal.

It is well known 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.

In the light of the above, the application for condonation of delay is **allowed** subject to payment of Rs.5000/- towards cost, out of which Rs.2500/- shall be paid to the applicant and the rest Rs.2500/- 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**.

Respondent is directed to file reply against the grounds of appeal before the next date of listing. He is also directed to send its copy to the learned counsels for the applicant through e-mail.

List this case for on **09.05.2022** hearing.

(K.K. Jain)

(T.B. Singh)

Dated: 01.04.2022
VIJAYKUMAR