

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 1

APPEAL-382/2023

RATAN BUILDTECH PRIVATE LIMITED

.....Appellant

Versus

SHAKTIDHAR SAHANISHAKTIDHAR SAHANI

.....Respondent

Counsel for Appellant

MAHIMA PAHWA

Counsel for Respondent

DR. AZHAR IKRAM

MANISH SINGH

Hon'ble Mr. Justice (Dr.) D.K. Arora, Chairman

Hon'ble Mr. Sanjai Khare, Judicial Member

Heard Ms.Mahima Pahwa along with Sri Prashant Kumar Singh, learned counsel for applicant and Dr. Azhar Ikram as well as Sri Amit Yadav, learned counsel for respondent on the application for condonation of delay.

Learned counsel for respondent raises serious objection on the application for condonation of delay and submitted that the impugned order dated 11.11.2022 was uploaded on the portal of the UP RERA and communicated to the parties on 23.11.2022, limitation for filing appeal against the impugned order dated 11.11.2022 was upto 21.01.2023. Certified copy of the order was applied by the appellant on 17.04.2023, which was prepared on 18.04.2023 and the same was received by the applicant on 20.04.2023.

The defective appeal was filed with application for condonation of delay on 19.05.2023. There is no sufficient cause shown by the applicant which warrant to condone the delay.

Learned counsel for applicant submitted that initially a writ under Article 227 No.272/2023 (Ratan Buildtech Private Limited Vs. U.P.Rera and others) against the impugned order dated 11.11.2022 of the Regulatory Authority in Complaint No.ADJ/NCR144/07/97634/2022 was filed before the Hon'ble High Court and the same was dismissed vide order dated 23.01.2023 on the ground of availability of alternative remedy of filing appeal before this Tribunal and thereafter about 30 defective appeals where the delay was from 8 days to 389 days along with application for condonation of delay were filed.

Learned counsel for applicant further submitted that since the impugned order is without jurisdiction and, therefore, in the interest of justice the delay in filing the appeal deserves to be condoned and the matter may be heard on merit.

Learned counsel for applicant has placed reliance in the case of **State of Punjab and others Vs. Gurdev Singh**, 1991 (4) SCC 1. Learned counsel for respondent while opposing the above judgment placed reliance of judgment of Hon'ble Supreme Court in the case of **Sheo Raj Singh (deceased) through L.Rs. and others Vs. Union of India and others, 2023 (10) SCC 531**, and submitted that there is no sufficient cause or explanation shown in the application for condonation of delay for not approaching the Tribunal within the period prescribed under the Act.

Learned counsel for respondent has also placed reliance on the judgment of Hon'ble Supreme Court in the case of **Prahlad Raut Vs. All India Institute of Medical Sciences**, 2021 (14) SCC 472, wherein the case of State of Punjab and others Vs. Gurdev Singh (supra) relied by the applicant was also taken note of.

Learned counsel for respondent submitted that though the aforesaid writ petition filed in a similar matter was dismissed by Hon'ble High Court on 23.01.2023 but the certified copy of the order was applied in the month of April, 2023 and the instant bunch of appeals has been filed sometimes in the month of May, 2023, which also establishes the callous approach of the applicant.

Learned counsel for applicant needs some more time to research and prepare her submissions in order to give sufficient cause for delay for exercising discretion by the Tribunal.

As prayed, list this defective appeal for consideration of application for condonation of delay and hearing on **24.04.2024**.

(Sanjai Khare)

(D.K. Arora)

Dated: 29.03.2024

IRFAN