

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 1

APPEAL-475/2020

U.P. AVAS EVAM VIKAS PARISHAD

.....Appellant

Versus

GEETA LAXMI

.....Respondent

Counsel for Appellant

SIDDHARTH VIKRAM ASTHANA

ANOOP KUMAR ASTHANA

Counsel for Respondent

IN PERSON

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

Hon'ble Mr. Rajiv Misra, Administrative Member

Heard Sri Siddharth Vikram Asthana, learned counsel for the applicant and Ms. Geeta Laxmi the respondent (in person) on the application for condonation of delay.

Submission of the learned counsel for the applicant is that the complaint of the respondent was allowed vide order dated 21.10.2019. The applicant on receipt of the same moved an application for rectification under Section 39 of the Act, 2016 on 29.01.2020. The said application was rejected vide order dated 02.03.2020. The order dated 02.03.2020 was uploaded and communicated to the parties on the same day. The application for applying certified copy of the order was filed on-line on 04.03.2020 and when no information was received regarding preparation of the certified copy, an enquiry was made from the office of the Regulatory Authority, whereupon it was informed that due to some technical fault the request of the applicant for certified copy, could not be processed. In the meantime, due to Covid-19 Pandemic, lock-down was imposed in the country. The certified copy was again applied on 11.06.2020 and the same was prepared and issued to the applicant on 11.06.2020.

Counsel for the applicant was assigned the responsibility of preparing the appeal but in the meantime, the father of the learned counsel for the applicant suffered from Covid-19 infection, and as such, he was busy with his father, and therefore, the present appeal could not be prepared and filed in time. It is further submitted that the delay caused was beyond the control of the learned counsel for the applicant.

Learned counsel further submitted that the Hon'ble Supreme in a case namely, *Suo Motu Writ Petition (Civil) No.3 of 2020* In re:- Extension of Limitation, decided on 08.03.2021 took cognizance for extension of Limitation for filing petitions/applications/suits/appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under any special law (both Central or State) and vide an order dated 27.03.2020 extended the period of limitation prescribed under the general law or special laws whether compoundable or not with effect from 15.03.2020 till further orders. This order was extended from time to time and finally vide order dated 08.03.2021 a direction was issued to the effect that “in computing

the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021 and in cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply”.

Learned counsel for the applicant submitted that in the light of the directions of Hon’ble Supreme Court, delay in filing the present appeal deserves to be condoned.

The request of the learned counsel for the applicant was opposed by Ms. Geeta Laxmi the respondent (in person).

We have examined the submission of the learned counsel for the applicant and perused the affidavit filed in support of the application for condonation of delay.

On due consideration, we find that the cause shown by the learned counsel for the applicant is sufficient, especially in view of the order of Hon’ble Supreme Court dated 27.03.2020 read with order dated 8.03.2021 in suo motu Writ Petition No. 3 of 2020 in re: Extention of Limitation.

The delay is condoned.

Let the present defective appeal be converted into Regular Appeal.

List this appeal for hearing on **12.04.2021**.

The learned counsel for the applicant assures that he will pay the cost to Ms. Geeta Laxmi the respondent (in person) in compliance of the order dated 18.01.2021 by the next date of listing.

Rajiv Misra)

(D.K. Arora)

Dated: 17.03.2021
VIJAYKUMAR