

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 1

APPEAL-448/2023

HIMALAYA REALESTATE PVT LTD

.....Appellant

Versus

ASHOK KUMARASHOK KUMAR

.....Respondent

Counsel for Appellant

Counsel for Respondent

NILAYA GUPTA

AWANITIKA

Hon'ble Mr. Justice Suneet Kumar, Chairman

Hon'ble Mr. Devindar Singh Chaudhry, Technical Member

(I.A. No. 1777/2023: Application for condonation of delay)

1. Heard Shri Nilaya Gupta, learned counsel for the applicant/promoter and Shri Hemant Tewari, Advocate holding brief of Shri M.P. Sahai, learned counsel for the respondent/allottee.
2. The impugned order dated 04.11.2022, passed by the learned Adjudicating Officer at Gautam Budh Nagar, came to be uploaded on the portal of U.P. RERA on 07.11.2022. The appeal was to be instituted within 60 days thereafter.
3. It is submitted that appellant-promoter came to know of the impugned order only on 17.02.2023, duly informed by its legal representative, representing the appellant before the Adjudicating Officer. Thereafter, an endeavour was made to institute the appeal. The certified copy of the impugned order was applied on 18.02.2023, which was prepared on 20.02.2023, but was received on 27.02.2023. It is further submitted that the appellant, due to fault of its legal representative, who had promptly not informed the promoter of the impugned order, hence, it is submitted that the applicant-promoter will suffer an irreparable loss, in the event the delay is not condoned due to laches/casual approach of their legal representative. The appeal came to be instituted on 17.03.2023. The appeal was defective, not filed in the prescribed format,

consequently, the same was withdrawn and re-instituted in the prescribed format on 28.04.2023 with a delay of 107 days.

4. Having due regard to the facts and circumstance of the case as pleaded in the affidavit in support of delay condonation application, appellant has not furnished any explanation as to why the appellant was sitting over its right to institute the appeal. The casual approach of the legal representative of the appellant, who was fully aware of the proceedings, is not a sufficient cause to condone the delay. The appellant has not furnished any satisfactory explanation, whatsoever, for instituting the appeal belatedly.
5. Accordingly, the **application for condonation of delay is rejected. The appeal, consequently, stands dismissed.**

(Devindar Singh Chaudhry)

(Suneet Kumar)

Dated: 16.04.2025
SYEDTANVEER