

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 2

MISC. CASE-584/2019

ARUN KUMAR

.....Appellant

Versus

M/S MJS INFRAHOUSING PVT. LTD.

.....Respondent

Counsel for Appellant
SHASHI KANT VERMA

Counsel for Respondent
SHOBHIT MOHAN SHUKLA

Hon'ble Mr. T.B. Singh, Judicial Member
Hon'ble Mr. K.K. Jain, Technical Member

Disposal of an application dated 05.11.2019 for condonation of delay

1. The record shows that in this case the final hearing was concluded on 25.03.2021 and the case was fixed for judgment. But at the time of writing judgment it came to the notice that delay condonation application is still undisposed, hence it is desirable in the eyes of the law that "Delay condonation application" must be disposed first prior to the instant appeal.
2. We perused the "Delay condonation application which has been moved with the submission that the applicant has firstly preferred a review application against the impugned order dated 29.07.2019 under Rule 36 (a) of the U.P. Real Estate Regulatory Authority (General) Regulation, 2019 readwith Section 39 of RERA Act, but the same was returned back to the applicant by post directing him to file online review petition. The applicant filed online review petition on 12.09.2019 alongwith prescribed review fee. Thereafter the applicant approached office of Regulatory Authority on 25.10.2019 to inquire about his online application. In the office of Regulatory Authority, the applicant was informed that Regulatory Authority has repealed the provisions of Rule 36 (a), (b), (c) & (d) of the aforesaid

regulation but no information was sent to the applicant either through SMS or E-mail. The applicant came to know about this regulation on 25.10.2019 when he visited RERA office to inquire about Online application. After knowing the facts the instant appeal was filed by the applicant on 05.11.2019. In the facts and circumstances of the case the delay caused in filing the instant appeal may be condoned.

3. From perusal of record it is evident that the impugned order was passed on 29.07.2019 by the Regulatory Authority and the applicant filed an online review petition on 12.09.2019 and later on Regulatory Authority issued notification regarding withdrawal of provisions of review, but applicant was not informed about this withdrawal order. The applicant came to know about this withdrawal order on 25.10.2019 when he visited office of the Regulatory Authority. Thus, it is obvious that the applicant was not in the knowledge of the impugned order dated 29.07.2011. Only on 25.10.2019, applicant came to know about the impugned order. Thereafter the instant case was filed on 05.11.2019. Thus, it appeared that the delay in filing the instant case is not intentional and the application for condonation of delay deserves to be allowed.
4. Apart from the above, it is also apparent from the record that in this case on behalf of opposite party No. 2-counsel Sri Dushyant Singh has filed his Vakalatnama but he did not appear before the Tribunal. He has also not filed any objection against the delay condonation application. Counsel for opposite party No. 1 has put up his appearances before the Tribunal, but he has also not filed any objection against "Delay Condonation Application". These circumstances show that the opposite parties also do not have any objection against "Delay Condonation Application". Therefore, in the facts and circumstances of the present case the delay caused in

filing the instant appeal neither can be said intentional nor deliberate. Consequently, the application for condonation of delay deserves to be allowed.

ORDER

The delay condonation application dated 05.11.2019 is **allowed**. Registry is directed to register this misc. case as regular appeal.

Dated:
pradeep/-

(K.K. Jain)

(T.B. Singh)

Misc. Case No. 584/2019

Hon'ble Mr. Tej Bahadur Singh, Judicial Member

Hon'ble Mr. Kamal Kant Jain, Technical Member

Delay condonation application **allowed**.

For order, see our order of date passed on separate sheets.

List this appeal on **22.04.2022** for further order

(K.K. Jain)

(T.B. Singh)

Dated: 05.03.2022
PRADEEPKUMAR