

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW**Division Bench Court No. 1****MISC. CASE-653/2019**

SHYAMCHAND DE

.....Appellant

VersusANIL JAIN SHOUMYA SHUBHAM INFRASTRUCTURE
PVT. LTD.

.....Respondent

Counsel for Appellant
MADHUKAR OJHA**Counsel for Respondent****Hon'ble Mr. Justice (Dr.) D.K. Arora, Chairman**
Hon'ble Mr. Rajiv Misra, Administrative Member

Sri Madhukar Ojha, learned counsel for the applicant is present.

No one is present on behalf of respondent.

Order sheet indicates that vide order 08.01.2021 this Tribunal after examining the fact that notice has already been served to the respondent way back on 10.11.2020 and orders of the Tribunal have been sent to the parties on the respective email addresses available on record, and therefore, it cannot be said that the respondent is not aware about the present proceedings, decided to proceed ex-parte against the respondent and today's date was fixed for consideration of the application for condonation of delay.

Heard Sri Madhukar Ojha learned counsel for the applicant on application for condonation of delay.

Submission of the learned counsel for the applicant is that the impugned order dated 16.08.2019 was communicated to the parties and uploaded on the website of the RERA on 04.10.2019. Limitation for filing the appeal was 03.12.2019 and the present case has been filed on 05.12.2019 with a delay of two days. Further submission of the learned counsel for the applicant is that the draft for payment of fee towards filing of the appeal was submitted through SBI Collect on 03.12.2019 but on account of some personal problem the appeal could not be filed on the same day. The delay of two days deserves to be condoned in the interest of justice.

We have examined the submissions of the learned counsel for the applicant and perused the affidavit filed in support of the application for condonation of delay. We find that the delay of two days in filing the present appeal deserves to be condoned.

Application for condonation of delay is **allowed**. Let this case be converted into Regular appeal.

Issue notice to the respondent on the appeal.

Learned counsel for the appellant will take steps for service within a week.

Registry on receipt of the process will issue notice to the respondent returnable on 26.02.2021. Learned counsel for the appellant is directed to send a copy of the memo of appeal to the respondent and his counsel within a week.

Respondent on receipt of the same will send objections to the grounds of appeal to the appellant and his counsel within ten days.

Reply, if any, will be sent by the learned counsel for the appellant to the respondent and his counsel within a week thereafter through email.

Parties/legal representative are directed to upload their objections/replies on the e-portal of the Tribunal and the originals of the same will be filed in the Registry atleast three days before the next date of listing.

List this appeal on **26.02.2021** for hearing.

(Rajiv Misra)

(D.K. Arora)

Dated: 29.01.2021
VIJAYKUMAR