

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 1

APPEAL-141/2019

CMD CHAITANYA SHIVRAM SHIROOR

.....Appellant

Versus

AIR FORCE NAVAL HOUSING BOARD

.....Respondent

Counsel for Appellant
PRAKHAR MISHRA

Counsel for Respondent
KUSHAGRA DIKSHIT

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

Heard learned counsel for the appellant on the application for recall of order dated 23.10.2021.

The submission of learned counsel for the appellant is that initially the case was listed on 21.10.2021, but no one appeared on behalf of the appellant on account of wrong date noted by the clerk of the learned counsel for the appellant. The learned counsel for the appellant submitted that this case was listed on 23.10.2021 (Saturday) before the special Bench constituted for hearing of old cases. As no one appeared on behalf of the appellant, the case was dismissed for want of prosecution.

The learned counsel for the appellant submitted that the absence of learned counsel for the appellant was on account of mistake committed by his clerk and in the interest of justice, the order dated 23.10.2021 be recalled and the matter be heard on merit.

On examination, we found that on 21.10.2021 no one appeared on behalf of the appellant and it was informed by the learned counsel for the respondent that this case is already listed on 23.10.2021 in the list of old cases. The list of old cases of year 2018, which were to be taken up on 23.10.2021, was already uploaded on the e-portal of the Tribunal and it was also informed that the case will not be adjourned on any count on the date fixed and if no one appears on behalf of the parties the case will be heard and decided on the basis of available record. The parties were directed to come prepared for final hearing.

On 23.10.2021, no one appeared on behalf of the appellant and while revising the list the case was dismissed for want of prosecution. In our considered view, the appellant ought to have taken care of his case as the same was listed on 23.10.2021

(Saturday) before the special Bench constituted for hearing of old cases of year 2018 and list was uploaded on the e-portal of the Tribunal well in time. Therefore, not noting the date 21.10.2021 by the clerk of learned counsel for the appellant has no meaning as the old cases of 2018 were shown separately for 23.10.2021 (Saturday) before the Special Bench.

However, in the larger interest, **we recall the order dated 23.10.2021** at the cost of Rs. 1,000/-. The cost so received will be utilized for purchase of books for Legal Representatives' Library.

List this appeal for hearing on **05.07.2022**.

(K.K. Jain)

(D.K. Arora)

Dated: 18.05.2022
SYEDTANVEER