

THE U.P. REAL ESTATE APPELLATE TRIBUNAL, LUCKNOW

Division Bench Court No. 1

**EA-3/2023
IN
Appeal/72/2019**

AMIT KUMAR PANDEY

.....Appellant

Versus

M/S DEVIKA GOLD HOMZ PVT.LTD.

.....Respondent

Counsel for Appellant

Counsel for Respondent

Hon'ble Mr. Justice Suneet Kumar, Chairman

Hon'ble Mr. Sanjai Khare, Judicial Member

Hon'ble Mr. Rameshwar Singh, Administrative Member

Heard learned counsels for the parties.

The respondent promoter has filed an application for recall of order dated 05.08.2024 wherein, it was directed to proceed *ex-parte* against respondent in instant Execution Proceedings. Reasons assigned to recall the order has been stated in paragraphs three and four of the application. It is stated that due to some miscommunication between the authorised representative of the company and the counsels, vakalatnama in the present matter could not be filed and, therefore, date fixed in the matter could not be traced. A second appeal has been preferred by the respondent before Hon'ble High Court against impugned order dated 09.12.202, whereas, order sheet reflects that this Tribunal had issued notice on 03.07.2023 which was treated to be sufficient.

The respondent in its application has nowhere stated that the respondent was unaware of the proceedings going on in the matter, or the notice was not effected on them, thus relevant facts have been suppressed. The order under execution is of 2021 and since then three years has lapsed but the respondent have not complied the order.

In the interest of justice, order dated 05.08.2024 is being recalled subject to cost at Rs 50,000/- to be paid by the respondent to the appellant/applicant on or before next date of listing.

Objections, if any, to the execution application be filed within a week and copy of the same be served to other side on registered e-mail IDs. Reply to the objections of respondent, if any, shall be filed by the Execution Applicant within a week, thereafter.

It is clarified that no further opportunity will be granted to either side. If there is any difficulty to either side, they will make alternative arrangements failing which appeal will be decided on the basis of available documents/records.

List this EA for consideration on **18.12.2024**.

(Rameshwar Singh)

(Sanjai Khare)

(Suneet Kumar)

Dated: 19.11.2024
MANSINGH