

BEFORE THE MAHARASHTRA REAL ESTATE
APPELLATE TRIBUNAL, MUMBAI

M.A. No. 437/19 & 76/19
U-7
In
SC 1000728

Nirmal Ujwal Credit Co-op Soc.
V/s.
Pranali R. Putterwar

(Mr. Mohammed Zain Khan, Adv. for Applicant.
Ms. Pranali R. Putterwar, Non-applicant in person.
Mr. I.A. Charlewar, Adv. for Non-applicant.)

CORAM: **INDIRA JAIN J.,CHAIRPERSON**
 SUMANT KOLHE, MEMBER (J)
 S.S. SANDHU, MEMBER(A)

DATE : **05th DECEMBER, 2019.**

Called.

Heard Learned Counsel for parties.

By this application, applicant / appellant seeks condonation of delay of 38 days in filing appeal against the order passed by MahaRERA on 4th January, 2019.

According to Learned Counsel for appellant, appeal came to be filed on 11.04.2019 and delay of 38 days has occasioned for the following reasons:

- i] Appellate Tribunal is based at Mumbai whereas applicant is a Co-operative Society based in Nagpur;
- ii] Applicant Society was required to take decision by consensus regarding preferring an appeal;

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M.A. In SC 1000728

iii] Advocate for the applicant from Nagpur was required to prefer an appeal at Mumbai as at the relevant time appeal against Source complaint was not accepted online;

Learned Counsel for applicant submits that in view of the reasons particularly mentioned in para 7 of the application, delay being neither intentional nor deliberate may be condoned and opportunity be granted to applicant to place his grievances as mentioned in the appeal;

Learned Counsel for Non-applicant strongly resists the application and submits that from the impugned order itself, it can be seen that applicant is delaying the registration of the project and considering the delaying tactics application needs to be rejected with costs. Alternatively, Learned Counsel submits that Non-applicant is Nagpur based and lawyer representing the Non-applicant is also coming all the way from Nagpur. Considering the same, reasonable costs be imposed if application is allowed;

The reasons for condonation of delay mentioned in para 7 of the application have been substantiated by an affidavit. It is not denied that applicant is a Co-operative Society and it is Nagpur based. It is not specifically denied that online appeal against the order in source complaint was not accepted at the relevant time and Counsel from Nagpur representing the applicant was required to file appeal in the Tribunal at Mumbai;

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M.A. In SC 1000728

In view of the reasons assigned in the application, we do not find that delay is deliberate or intentional. Hence application is allowed.

Delay is condoned;

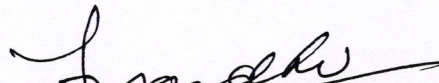
No order to costs.

Appeal

Mr. I.S. Charlewar, Learned Counsel waives notice for respondent. Learned Counsel for appellant seeks time to take instructions for compliance to Proviso to Section 43(5) of the RER Act.

Time granted as last chance

Stand over to 26th December, 2019 for compliance.


(S.S. SANDHU)


(SUMANT KOLHE)


(INDIRA JAIN J)