

Ankur Dhanuka
Vs.
Godrej Project Development Ltd. and another
Appeal No.1321 of 2019

Present: None.

While dictating the judgment, it came to our notice that there was a delay of 42 days in filing the present appeal. The appellant had moved an application for condonation of delay along with the appeal. The respondent No.1 has appeared on 28.11.2019. The copy of the paper book including the application for condonation of delay was already supplied to the respondent No.1. But at any stage of proceedings, respondent No.1 did not raise any objection that the present appeal is barred by limitation and the present appeal was adjourned for hearing of arguments along with Appeal No.600 of 2019 filed by respondent No.1. Moreover, it is the same very order which was under challenged in the appeal filed by the respondent No.1 i.e. 600 of 2019. So, it is in the fitness of the things that both the appeals should have been heard on merit. So, the delay of 42 days in filing the present appeal, in view of the facts and circumstances narrated in the application for condonation of delay supported by the affidavit of the appellant/allottee, stands condoned.

2. Notice to respondent No.2 was also issued by this Tribunal, but the same was received undelivered. From the perusal of the impugned order passed by the Ld. Authority, it is seen that respondent No.2 was proceeded against ex-parte. As respondent no.2 was proceeded against ex-parte before the Court below, so we dispense with the service of respondent No.2.

3. Judgment pronounced along with Appeal No.600 of 2019. The copy of the judgment is ordered to be placed on record of this case.

4. The present appeal stands partly allowed. The appellant is entitled for the refund of ₹26,06,426/- (Rupees Twenty Six Lakhs, Six Thousands, Four Hundred Twenty Six) along with interest at the rate of 10.20% (maximum SBI MCLR+2%) per annum from the date of institution of the complaint before the Ld. Authority, till the amount deposited with this Tribunal.

5. The respondent/promoter has already deposited the entire principal amount of ₹26,06,424/- with this Tribunal (18,54,597 on 18.10.2019 + (plus) 7,51,827 on 25.10.2019). The amount deposited by the respondent with this Tribunal be remitted to the learned Haryana Real Estate Regulatory Authority, Gurugram for disbursement to the respondent/allottee after the expiry of period of limitation for filing the appeal and in accordance with law.

6. Copy of this order be communicated to the parties/learned counsel for the parties and the learned Authority for compliance.

7. File be consigned to the record.

Justice Darshan Singh (Retd.)
Chairman,
Haryana Real Estate Appellate Tribunal,
Chandigarh
27.05.2020

Inderjeet Mehta
Member (Judicial)
27.05.2020

Anil Kumar Gupta
Member (Technical)
27.05.2020