

**BEFORE THE HARYANA REAL ESTATE APPELLATE
TRIBUNAL**

Appeal No. 732 of 2022

Date of Decision: 28.08.2023

Orris Infrastructure Private Limited, Corporate Office at J-10/5, DLF Phase-2, Gurugram-122002.

Applicant/Appellant

Versus

1. Mr. Satbir Singh Mor
2. Mrs. Monisa Samal Mor

Both R/o H.No.27, Q Extension, New Palam Vihar,
Phase-I, Haryana-122017.

Respondents

CORAM:

Justice Rajan Gupta
Shri Anil Kumar Gupta,

Chairman
Member (Technical)

Argued by: Mr. Surjeet Bhadu, Advocate alongwith
Ms. Sanya Thakur, Advocate for the
applicant/appellant.

Mr. Rishab Jain, Advocate,
for the respondents.

ORDER:

RAJAN GUPTA, CHAIRMAN:

This is an application seeking condonation of 310 days' delay in filing the appeal. The application is supported by an affidavit of Mr. Naveen Sharma, authorised signatory of M/s Orris Infrastructure Private Limited/appellant.

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2. Admittedly, an appeal has to be preferred within 60 days from the date of receipt of the copy of the impugned order as per Section 44(2) of the Real Estate (Regulation and Development) Act 2016 (hereinafter called as 'the Act'). In the instant case, order was passed on 03.08.2021 and copy thereof is stated to have been uploaded on 26.10.2021. The applicant has mainly contended that the period from 15.03.2020 till 28.02.2022 has to be excluded for computing the limitation as per judgment of the Apex Court. As per him, after deducting the said period, there would be a delay of 310 days in filing the appeal. On a query being put to him about explanation, if any, for 310 days' delay, after deducting all period as sought by the appellant, no plausible explanation is forthcoming. Only plea taken is that the office of the appellant was shifted from 10/5, Phase 2, DLF, Gurugram to 10/9, Phase 2, DLF, Gurugram. According to him sufficient time was consumed in this exercise. This plea has however been rebutted in the written response filed on behalf of the allottees supported by affidavit of one of the allottees. It has been stated therein that the applicant was well aware of the period of limitation provided in the Act. Filing the appeal beyond the period of limitation, is misuse of process of law with the sole intent of harassing the respondent.

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3. We have considered the respective pleas and carefully perused the record.

4. Perusal of the record shows that the Adjudicating Officer in its order dated 22.09.2022 (Execution Petition No.418 of 2022) issued show cause notice to the directors of the appellant company as to why they be not committed to civil imprisonment. It appears that the present appeal has been filed as an afterthought on receipt of show cause notice of the Executing Court. The plea that 310 days' delay was caused due to shifting of office of the appellant is bereft of any substance. Even otherwise, it appears that the office was shifted to the adjoining building only. Issue pertaining to condonation of delay is superfluous, as ground of shifting the office cannot be taken into consideration for the purpose of condonation of delay.

5. In view of the peculiar facts and circumstances of the case, we are of the considered view that 'sufficient cause' is not made out for condonation of delay in filing the appeal. Prayer is thus rejected. Consequently, the application for condonation of delay is dismissed. As we have not condoned the delay, accordingly, the appeal stands dismissed.

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6. The amount of Rs.12,33,413/- deposited by the applicant/appellant with this tribunal in view of proviso to Section 43(5) of the Act, 2016 along with interest accrued thereon, be sent to the Haryana Real Estate Regulatory Authority, Gurugram, for disbursement to the respondent/allottee subject to tax liability, if any, as per law.
7. Copy of this order be sent to the parties/learned counsel for the parties and the learned Authority.
8. File be consigned to the record.

Announced:
August 28, 2023

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Anil Kumar Gupta
Member (Technical)

CL