

**BEFORE THE MAHARASHTRA REAL ESTATE
APPELLATE TRIBUNAL, MUMBAI**

**Misc. Application No. 383/20 (Delay & setting aside
Ex-parte Order) &
Execution Application No. 85/19
IN
Appeal No. AT006000000010817**

M/s. Monarch & Qureshi Builders ... Applicants

Versus

Mr. Dilip Muni ... Non-applicant

Adv. Makarand Raut for Applicant.

*Adv. Tushar Gujjar a/w Shweta Merchant & Harpreet Singh i/b
M/s. Solicis Lex for Non-applicants.*

**CORAM : SUMANT M. KOLHE, MEMBER (J)
S.S. SANDHU, MEMBER (A)**

DATE : 30th SEPTEMBER, 2020.

(THROUGH VIDEO CONFERENCING)

Heard learned counsel for the parties on Application for setting aside the ex-parte order along with request for condoning the delay in filing the same.

2. Learned counsel for Applicants submitted that copy of Execution Application was served to Applicants in the month of January and matter was listed for hearing on 04.02.2020. He submitted that due to inadvertence and oversight the receiving clerk did not inform the officers and the case in charge of Applicants about the receipt of Execution Application and next date of hearing i.e. 04.02.2020.



Consequently, the Applicants could not inform their Advocate for taking necessary steps to appear in the matter. He further submitted that after passing ex-parte order on 04.02.2020 the matter was adjourned to 30.03.2020. However, due to national lockdown on account of Covid-19, the precipe filed by Applicants for hearing came to be listed on 08.09.2020 only. He therefore pleaded that in view of the aforesaid circumstances the delay in filing Applications for setting aside the order dated 04.02.2020 be condoned and the said order be set aside by allowing the Application.

3. Learned counsel for Non-applicant strongly opposed the Application for condonation as well as for setting aside the ex-parte order. He submitted that Applicants have not filed reply in the Appeal and have been deliberately trying to prolong the matter by not appearing in the matter. He also submitted that order dated 04.02.2020 has already attained finality and therefore sought rejection of Application requesting for condoning the delay and setting aside the order.

4. We have carefully considered the submissions of the parties. It is seen that the Applicants have failed to attend the matter in all desired seriousness. However, in order not to deny opportunity to Applicants we are inclined to allow the aforesaid Application in the interest of justice subject to



costs of Rs. 7500/- to be paid by Applicants to Non-applicant in terms of the following order.

ORDER

- i) The delay in filing the Application for setting aside the order dated 04.02.2020 is condoned and the Application for setting aside the aforesaid order is allowed.

- i) The order dated 04.02.2020 is set aside subject to payment of Rs. 7500/- to Non-applicant on or before 09.10.2020 as a condition precedent. In case of failure, the ex-parte order dated 04.02.2020 shall stand restored without further consideration.


(S. S. SANDHU)

Bmb/- 2


(SUMANT KOLHE)