

**BEFORE THE MAHARASHTRA REAL ESTATE  
APPELLATE TRIBUNAL, MUMBAI  
Misc. Application No. 509/19  
In  
In Appeal No. AT006000000031832**

**M/s. Shree Sukhakarta Developers (P)  
Ltd.**

Ruparel Iris, next to Agmark Laboratory,  
Senapati Bapat Marg,  
Matunga Road (West), Mumbai-400016 ... **Applicant**

Versus

**Mr. Mahendra Jain,**

402, A-Wing, Saraswati Towers,  
Parsi Panchayat Road, Opp. Sona Udyog,  
Andheri (East), Mumbai-400069 ... **Non-applicant**

---

Anosh Sequeira i/b Ms. Alvina Castellino, Advocates for  
Applicant.

Mr. Rameshwaran Thotla & Mr. Chetan Hadolikar, Advocates  
for Non-applicant.

---

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

**S. S. SANDHU, MEMBER (A)**

**DATE: 20<sup>TH</sup> July, 2020**

**ORDER**

**PER: SUMANT KOLHE, MEMBER (J)**

Application for condonation of delay as per Section 44 Sub-section 2 of RERA arises out of following facts:

Applicant is promoter. Non-applicant is allottee. Allottee had filed complaint No.56091 against promoter. Learned Member-1 of MahaRERA passed impugned order on 5<sup>th</sup> July, 2019 and disposed of the complaint and directed promoter to execute agreement for sale with respect of flat No.1603 within period of one month under Section 13 of RERA.

Promoter challenged impugned order by preferring appeal No. 31832. Advocate of the promoter was unwell due to her pregnancy and promoter could not file appeal within stipulated period and there is a delay of four days in filing appeal. Promoter has prayed for condonation of delay of four days on account of sufficient cause of sickness of the Advocate.

WS

2. Heard both sides.
3. Following points arise for our determination.

**POINTS**

- i) Whether applicant has sufficient cause for condonation of delay?
- ii) What order?

## **FINDINGS**

4. Our findings on the above points for the reasons stated below are as under:

1. Affirmative.
2. Application is allowed.

## **REASONS**

5. There is a delay of four days in filing appeal. Advocate for applicant was unwell due to her pregnancy and she could not file appeal within stipulated period. So, sickness of Advocate of applicant is the reason for delay of four days in filing appeal. This ground is duly substantiated by filing affidavit in support of the application for condonation of delay. Sickness of the Advocate is the sufficient cause for condonation of delay of four days. Applicant was never negligent and careless in filing appeal. In fact, applicant had promptly obtained certified copy of impugned order within short period and had taken genuine efforts to file the appeal within the period of limitation. However, due to sickness of Advocate of applicant, delay of four days in filing appeal has occurred.

MS

6. For the reasons stated above, applicant has made out sufficient cause for condonation of delay and we feel it appropriate to condone the delay. We therefore allow this application and answer point Nos. 1 & 2 accordingly.

7. In result, we pass following order.

**ORDER**

- WS
- i) M.A. No. 509/2019 is allowed.
  - ii) Delay of four days in filing appeal is condoned.
  - iii) Appeal shall continue with its original registration No. 31832.
  - iv) List appeal for appearance of the parties on the date to be informed in due course.
  - v) No order as to costs.

  
**(S. S. SANDHU)**

  
20/07/20  
**(SUMANT KOLHE)**