

**BEFORE MAHARASHTRA REAL ESTATE
APPELLATE TRIBUNAL MUMBAI**

M.A. No 20/24 (Delay)

In

23) Appeal No. AT00600000184791/23

Bhavesh Shah & Arpita Shah

... Applicants

V/s.

Shreeji Constructions

... Non-applicant

Alongwith

M.A. No 21/24 (Delay)

In

24) Appeal No. AT00600000184792/23

Rajiv Agarwal & Rachana Agarwal

... Applicants

V/s.

Shreeji Constructions

... Non-applicant

Adv. Ms. Niyanta Parekh for Applicants

Adv. Ms. Sakina Kothari for Non-applicant

**CORAM : SHRI SHRIRAM. R. JAGTAP, MEMBER (J), &
DR. K. SHIVAJI, MEMBER (A)**

DATE : 4th April, 2024

(THROUGH VIDEO CONFERENCE)

Learned Advocate Ms. Kothari seeks time to file reply to delay condonation Application.

Learned Advocate Ms. Parekh submits that absolutely there is no delay in filing Appeals but because of precautionary measures delay condonation applications came to be filed by Appellants. Learned

Spatp

Advocate has placed reliance on following citations.

- 1) Collector Land Acquisition Anantnag Vs. Ms. Katiji & Ors. [(1987) 2 Supreme Court Cases 107]
- 2) Lucina Land Developers Limited Vs. Navin Kumar HCAJ Second Appeal No. 585 of 2020.

We have given thoughtful consideration to Ms. Niyanta Parekh. It is not in dispute that impugned order came to be passed on 15th September, 2023. The Complainants/ Appellants were supposed to file Appeal within 60 days from the date of order. Limitation for filing Appeal has expired on 14th November, 2023.

It transpires from the certified copy of impugned order that the complainants/Appellants had applied for certified copy of impugned order on 18.10.2023 and they received it on 1.11.2023.

Section 12 of Limitation Act, 1963 talks about the exclusion of time while computing the period of limitation for any suit, Appeal or Application. Sub Section (2) of 12 of Limitation Act 1963 clarifies that-

"In computing the period of limitation for an Appeal or an Application for leave to Appeal or for revision or for review of a judgment, the day on which the judgment complained of was pronounced and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be revised or reviewed shall be excluded."

Therefore, while ^{computing} ~~completing~~ the period of limitation in filing Appeals the period in obtaining certified copies of impugned order requires to be excluded.

Sgatar

Admittedly, Appeal came to be filed on 23.11.2023. If we exclude 12 days spent in obtaining certified copy, then it can be said that Appeals are within limitation.

Accordingly, Misc. Application No. 20/24 and 21/24 stand disposed of.

Respondent is directed to file reply to Appeal.

Stand over to 25th July, 2024 for filing reply to Appeal.


(DR. K. SHIVAJI)


(SHRIRAM R. JAGTAP)

SPK/23-24