

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL
MUMBAI**

**M.A. No. 518/23 (Setting aside ex-parte order)
in**

APPEAL NO. AT005000000144249/23

Shri. Sachin R. Thorat & Anr.

... Appellants

-VS-

M/s. Enerrgia Skyi Developers

... Respondent

Mr. Amit Sawant, Advocate for Appellants.

Ms. Gayatri Khetkar, Advocate for Respondent.

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

DATE : 18th OCTOBER, 2023

(THROUGH VIDEO CONFERENCE)

MISC. APPLICATION NO. 518/2023

By this application, Respondent is seeking to set aside the ex-parte order dated 13th April 2023 of this Tribunal on the grounds set out in this application.

- 2) Heard learned counsel for parties.
- 3) Adv. Gayatri Khetkar, learned counsel for Applicant/Respondent submits that even though the Respondent had received the copy of appeal memo and intimation regarding the hearing to be held on 16th Mar. 2023, she was unable to join the video conference on account of certain technical problems in opening the web link. In order to resolve opening of web link for joining the video

conference, she has written even the email also on 3rd Apr. 2023 itself and again on 6th May. 2023. This happened on account of the bonafide difficulties faced in joining the web link. Despite all efforts made by Applicant/Respondent, non-appearance of Respondent was beyond her control and urged that opportunity be given to Respondent for disposal of captioned appeal on merits. No prejudice will be caused, if the Applicant's prayer is allowed, and the ex-parte order is set aside.

- 4) Adv. Amit Sawant vehemently opposed the Misc. Application by submitting that by this application, Applicant is trying to mislead the Tribunal and the Misc. Application is totally misconceived and not maintainable in the eyes of law. Applicant was duly served and by register post, the intimation of schedule hearing to be held on 16th Mar. 2023 was informed in writing. The service affidavit was also filed. He further denied that the non-appearance of Respondent was beyond the control of Respondent and urged that the Misc. Application be dismissed.
- 5) Perused.
- 6) Perusal of record reveals that on page no. 326, Applicant/Respondent has written to the Tribunal by email pointing out certain difficulties in joining the video conference by Respondent as web link was not getting opened. However, due to



certain difficulties and due to technical issues, she could not joined the conference.

- 7) We are of the considered view that there is no impediment in allowing the Misc. Application and to set aside the ex-parte of dated 13th Apr. 2023 and we proceed to pass the order as follows:
- 8) Misc. Application no. 518/2023 is allowed.
- 9) Ex-parte order dated 13th Apr. 2023 of this Tribunal to proceed the appeal against Respondent is set aside and recalled.
- 10) No costs.

APPEAL NO. AT005000000144249/23

- 11) Adv. Gayatri Khetkar seeks time to file reply of appeal and to serve to other side.
- 12) Liberty to Appellant to file rejoinder, if any.
- 13) Stand over to 8th Nov. 2023 for completion of pleadings.


(DR. K. SHIVAJI)


(SHRIRAM. R. JAGTAP)

MS/-