

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL
MUMBAI**

**M.A. No. 324/23 (Delay)
WITH
M.A. No. 325/23 (Interim Relief)
IN
APPEAL NO. G-02/23**

M/s. Navneet Developers

... Applicant

-VS-

Bennet & Bernard Custom Homes Pvt. Ltd. & Ors. ... Non-applicants
Mr. Girish Tribhuvan, Advocate for Applicant.
Mr. Dajvip Patkar, Advocate for Non-applicants.

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

DATE : 14th SEPTEMBER, 2023

(THROUGH VIDEO CONFERENCE)

Learned counsel for parties joined the conference.

ORAL ORDER

IN MISC. APPLICATION NO. 324/23 (Delay)

2] By this application, Applicant is seeking for condonation of delay of 18 days in filing of the captioned appeal against the order dated 17th January 2023 passed by Goa Real Estate Regulatory Authority.

3] Heard learned counsel for the parties.

4] Perused record.

5] Adv. Girish Tribhuvan submits that delay in filing of the application has happened primarily on account of collecting relevant



documents and also for gathering required information as mentioned in the application and further submits that the delay in filing appeal is neither intentional nor deliberate and has happened due to unavoidable circumstances beyond the control of the Applicant because the Applicant is located in Delhi. Applicant was not aware of, where the appeal needs to be filed and was confused with regard to the institutions where the appeal be filed. It is because the impugned order has been passed by Goa Real Estate Regulatory Authority. It was later clarified that this Tribunal will have Appellate Jurisdiction with respect to filing of the first appeal against the order passed by Goa Real Estate Regulatory Authority.

6] He further submits that delay happened in getting the paper notarized and movements of the paper to and fro. It happened because Applicant is located in Delhi, order has been passed in Goa and the appeal has been preferred in Mumbai in this Tribunal. He further submits that delay also happened in getting the relevant documents from the concerned authorities.

7] In view of the above, learned counsel further submits that the delay in filing of appeal for 18 days be condoned being a bona fide delay and it happened beyond the control of the Applicant.

8] Adv. Dajvip Patkar vehemently opposed the Misc. Application for condonation of delay by submitting that only a solitary ground is mentioned in the application which is casual, and the grounds submitted

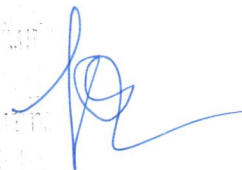


are prima facie, unbelievable and not valid. He further submits that the quantum of delay is not important, rather the quality of explanations for the delay is crucial as per the settled principle of law for condonation of delay.

9] Learned counsel for Applicant in rejoinder further submits that the delay happened are genuine, bona fide and it happened primarily on account of running across in three different locations namely in Goa, Mumbai and Delhi. Accordingly, Applicant submits that the delay be condoned, and the matter be taken up for adjudication on merit.

10] Perusal of record ^{reveals} and considering the submissions made by the Applicant, it is noticed that the impugned order is passed by Goa Real Estate Regulatory Authority. The application is supported by affidavit which shows *inter-alia* that the Applicant, Kulbir Singh is located in Nehru place, New Delhi. It is also the fact that the order passed by Goa RERA is appealable in this Tribunal located in Mumbai. Therefore, it is also plausible that there may be some confusion in the initial stage about the grounds submitted by the Applicant regarding initial confusion with regard to the place/institution, where the appeal be filed against the order of Goa RERA.

11] Considering the grounds for the condonation of delay of 18/22 days, which prima facie, appears to be genuine and bona fide and considering that the Applicant has not gained any undue benefits by delay



in filing of appeal, we are inclined to allow the above Misc. Application and condone the aforesaid delay. Accordingly, we proceed to pass order as follows.

- i) Misc. Application no. 324/23 is allowed.
- ii) Captioned delay in filing of appeal is condoned.
- iii) No costs.

IN APPEAL NO. G-02/23

- 12] Appearance is same as above.
- 13] Adv. Dajvip Patkar seeks four weeks' time to file reply.
- 14] Liberty to parties to file rejoinder, if any.
- 15] Stand over to 5th Oct. 2023 for reply and rejoinder/completion of pleadings and final hearing on Misc. Application.



(DR. K. SHIVAJI)

MS/-



(SHRIRAM. R. JAGTAP)