

S.No.7

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
02-04-2024 AT 10:30 AM**

**CP No. 09/241/HDB/2024
AND
IA (CA) 87/2024 in CP No. 09/241/HDB/2024
u/s. 241 of Companies Act, 2013**

IN THE MATTER OF:

M/s. Giridhari Homes Pvt Ltd

...Petitioner

AND

M/s. Kancharla & Giridhari Homes & 13 others

...Respondent

C O R A M:-

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

ORDER

IA (CA) 87/2024

This is an application filed for urgent listing of un-numbered IA with E-Filing No 1044/2024.

Learned senior counsel Mr TK Bhaskar for applicant present through Video Conference.

Learned Counsel Mr Parameswar Reddy, for applicant present physically.

Learned Senior Counsel Mr Avinash Desai, for respondent present through Video Conference.

Heard. This urgency application is allowed and the Un-numbered IA with E-filing No 1044/2024 (to re-open the IA No 58/2024) be listed if it is in order in the supplementary list.

Un-numbered IA with E-filing No 1044/2024

This is an application filed seeking to re-open the IA No 58/2024 to recall the order dated 21.03.2024. Notice given. Counter not filed. However, learned senior counsel for the respondent strongly opposed the same contending inter alia, that the orders of this court where a specific time has been fixed to file counter and also the rejoinder were flouted by the applicant herein, and the only intention of the applicant is to drag the proceedings as such the application ne dismissed. However, learned senior counsel for the applicant contended that pursuant to the directions of this Tribunal a preliminary counter has been filed and in filing the same there was a slight delay which was not intentional. As regards not making submissions on 21.03.2024, learned senior counsel Mr TK Bhaskar submits that he was held up in Hon'ble High Court at that time and for that reasons only he didn't make submissions and his absence on that day was not intentional.

Learned senior counsel further states that he would file a detailed counter, if permitted in a day and also make submissions if this application is allowed.

Having heard the learned senior counsels for both sides, we are of the view that no doubt there are latches on the part of the applicant, however on the ground of latches right to contest cannot be denied and proper course would be to impose

costs, especially in a situation where negligence is not pleaded. Further, since an interesting legal issue is also involved IA No 58/2024 we are of the view that in the interests of justice, opportunity can be given to the applicant. Therefore, **IA No 88/2024 with E-filing No 1044/2024 is allowed**, however on condition of payment of costs of Rs 25,000/- payable by the applicant to Prime Minister Relief Fund, and also on condition that counter and rejoinder if any shall be filed by 03.04.2024, in default of compliance to any of these contentions this **IA No 88/2024 with E-filing No 1044/2024** stands dismissed.

IA No 58/2024

For reporting compliance and for hearing, call on 03.04.2024.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)