

**THE NATIONAL COMPANY LAW TRIBUNAL
"CHANDIGARH BENCH, CHANDIGARH"**

**CA No.70/2024, 78/2024,
&
CP No. 9/Chd/Pb/2024**

**Rule 11 of NCLT Rules, 2016
Section 241, 242(4) of CA, 2013**

IN THE MATTER OF :

Satwant Singh

...Petitioner

Versus

Pure Drinks Limited & Ors.

...Respondents

IN THE MATTER OF CA NO. 70/2024:

PURE DRINKS LIMITED

Having its Registered Office at:

60, Yadvindra Colony, The Mall, Patiala Punjab- 147001

Email: puredrinksgroup@gmail.com

..Applicant

Vs.

1. SATWANT SINGH

Natural son of Late S. Daljit Singh

9, Friends Colony (West), New Delhi-110065

Email: singhsatwant@hotmail.com

...Respondent No. 1

2. SURJIT MALHAN

Wife of Late Mr. G.S. Malhan 36, Mount Road,

Guindy, Chennai-600032, Tamil Nadu

Email: sunnymalhan@yahoo.co.in

...Respondent No. 2

3. JAIDEEP SINGH MALHAN

CA No.70/2024, 78/2024,
&
CP No. 9/Chd/Pb/2024

Son of Late Mr. G.S. Malhan 36, Mount Road,
Guindy, Chennai-600032, Tamil Nadu
Email: sunnymalhan@yahoo.co.in

...Respondent No. 3

4. PARMEENA VIJAY MAHTANI

Daughter of Late Mr. G.S. Malhan 36, Mount Road,
Guindy, Chennai-600032, Tamil Nadu

...Respondent No. 4

5. HARJIT KAUR

Wife of Late S. Charanjit Singh 9,
Friends Colony (West), New Delhi - 110065

...Respondent No. 5

6. AIIT SINGH

Son of Late S. Daljit Singh 9, Friends
Colony (West), New Delhi - 110065
Email: ajitsingh47@hotmail.com

...Respondent No. 6

7. RAJ ANIRUDH & ASSOCIATES

228, Sainik Vihar, New Delhi-110034
Email: rkverma_ca@rediffmail.com

...Respondent No. 7

8. SHREYDISH CORPORATE ADVISORS LLP

Having its Registered Address at: 2,
Gulistan, Carmichael Road,
Curnballa Hill, Mumbai, Maharashtra - 400026

Email: sachinhsud@gmail.com

Also at:

Room 17, Patra Chaw1, 386, Sane Guruji Marg,
Near ITI Agripada, Jacob Circle, Mumbai, Maharashtra- 400011

...Respondent No. 8

9. REGISTRAR OF COMPANIES

Corporate Bhavan, 1st Floor, Plot No.4-B, Madhya Marg, Sector 27B,
Chandigarh-160019

Email: roc.chandigarh@mca.gov.in

...Respondent No. 9

10. PURE DRINKS (NEW DELHI) LIMITED

Having its Registered Office at: 60,
Yadvindra Colony, The Mall, Patiala, Punjab-147001

Email: puredrinksgroup@gmail.com

...Respondent No. 10

11. PARVEEN AJIT SINGH

Wife of Mr. Ajit Singh
9, Friends Colony (West), New Delhi-110065

Email: bobbhyshiba@hotmail.com

...Respondent No. 11

12. SHAH-E-NAAZ JUDGE KOHLI

Daughter of Late Col. Ajeet Singh Judge S-137,
Panchsheel Park, New Delhi

Email: boogiejkohli58@yahoo.com

...Respondent No. 12

13. NAGINA JUDGE WATERS

Daughter of Late Col. Ajeet Singh Judge
42, South Audley Street, London, WI K 2PT

Email: naginajwaters@gmail.com

...Respondent No. 13

14. RASHMI DESAI

Wife of Late Sardar Sarvapriya Singh
16225, Aurora Crest Drive
Whittier, CA, USA, PIN-CA90605

Email: rashmi16225@gmail.com

...Respondent No. 14

15. KAVITA ASIF

Wife of Akbar Asif 14th,
CA No.70/2024, 78/2024,
&
CP No. 9/Chd/Pb/2024

Alford House,
Park Street Mayfair,
London, United Kingdom

Through Special Power of Attorney Holder

Mr. Jitendra Kaul,

Rio 36/302, Aakarshan CHSL,
CSR Colony, MHADA Complex, Old Link Road,
Kandiwali, Mumbai-400067

Email: kavitaasif@gmail.com

...Respondent No. 15

16. SONIYA SINGH CHADDHA

Wife of Mr. Gunit Singh Chaddha 2,
Gulistan, Carmichael Road, Cumballa
Hill, Mumbai, Maharashtra - 400026

Email: chadhasoniya@yahoo.co.in

...Respondent No. 16

17. DEVINJIT SINGH

S/o Late Mr. Rasdip Singh
61, 6th Floor, Maker Chambers VI,
Jamnalal Bajaj Marg, Nariman
Point, Mumbai-400021

...Respondent No. 17

18. DALJIT SINGH (HUF)

Through Mr. Ajit Singh 9, Friends Colony (West),
New Delhi-110065

Email: ajitsingh47@hotmail.com

...Respondent No. 18

19. CEE JAY CROWN CORKS MFG. CO. PRIVATE LIMITED

S. Mohan Singh Building, Connaught Lane,

CA No.70/2024, 78/2024,
&
CP No. 9/Chd/Pb/2024

New Delhi-11001

...Respondent No. 19

IN THE MATTER OF CA NO. 78/2024:

SATWANT SINGH

Natural son of Late S. Daljit Singh
9, Friends Colony (West), New Delhi-110065
Email: singhsatwant@hotmail.com

...Petitioner

v.

PURE DRINKS LIMITED & 18 Ors. (as in the main CP No. 9/Chd/Pb/2024)

Having its Registered Office at:
60, Yadvindra Colony, The Mall, Patiala Punjab- 147001
Email: puredrinksgroup@gmail.com

.....Respondents

Judgment delivered on: 03.07.2024

**Coram: Hon'ble Mr. Harnam Singh Thakur, Member (Judicial)
Hon'ble Mr. L. N. Gupta, Member (Technical)**

Present:

For the petitioner and applicant in IA No.70/2024 : Mr. Anand Chhibbar, Senior Advocate
Mr. Vaibhav Sahni, Advocate
Ms. Swati Vashisth, PCA
Mr. Utkarsh Khatana, Advocate
Ms. Radhika, Advocate

For the Respondent No.1 and applicant in IA No.70/2024 and respondent in IA No.78/2024 : Mr. Ashish Chopra, Senior Advocate
Ms. Nitika Sharma, Advocate

For Respondent Nos.2 to 4 : Ms. Rupa Pathania, Advocate

For Respondent No.5 : Mr. Tarang Gupta, Advocate

For Respondent Nos. 6, 11, 18 & 19 : Mr. Amit Aggarwal, Advocate

For Respondent Nos. : Mr. Amit Jit Narang, Advocate
12, 13 and 15 Ms. Manpreet Kaur, Advocate

For the Respondent : Mr. Yashpal Sharma, Advocate
No.17

For Respondent No.16 : Mr. Sushant Karir, Advocate

**Per: Harnam Singh Thakur, Member (Judicial)
L.N Gupta, Member (Technical)**

ORDER

CA 70/2024

The present application is filed by the applicant i.e. Pure Drinks Limited (hereinafter referred to as 'applicant') against the petitioner in the main petition- Satwant Singh (hereinafter referred to as petitioner) and 18 Other Respondents (hereafter referred to as 'respondents') for dismissal of the main petition bearing CP No. 9/Chd/Pb/2024 on the ground of non-maintainability.

2. The brief facts of the application are that:-

2.1 The Memorandum of Understanding dated 07.05.1991 entered between the Petitioner, Respondent No. 6 and their sisters being legal heirs of S. Daljit Singh, wherein Petitioner and Respondent no. 6 have acknowledged that S. Daljit Singh inherited only 1/7th share in the estate of Smt. Laj Kaur. The claim of Petitioner to the estate of late Smt. Laj Kaur (grandmother of the petitioner who died intestate on 29.08.1983) is through his father- late S. Daljit Singh and limited to his father's entitlement. The said Memorandum of Understanding dated 07.05.1991 has been relied upon by the Petitioner in **Suit No. 509/1993**

titled as 'S. Ajit Singh & Anr. v Jasnit Singh & Ors decreed vide consent decree dated 02.02.1995 passed by the Hon'ble High Court of Delhi.

2.2. It is further submitted that AGM was conducted on 31.12.1993 which has been challenged by a third party, Projects Investment Private Limited (PIPL) to whom the Petitioner in collusion with the Respondent No. 6 had illegally allotted the shares in the applicant company and a ***Civil Suit titled as 'Project Investment Private Limited v Pure Drinks Limited & Ors.'*** bearing ***Suit No. 322 of 1993*** was filed before the Ld. Senior Sub Judge, Patiala, wherein order dated 05.02.1994, the Hon'ble Court held the, AGM dated 31.12.1993 as valid and the newly constituted board comprising Respondent Nos. 2, 3, 5 and 6 were recognized. However, the main suit was dismissed vide order dated 25.04.1994. Thereafter, no appeal was filed by 'Project Investment Private Limited (hereinafter referred as 'PIPL') against the Order dated 05.02.1994. Subsequently, petitioner challenged the same issue in another ***Suit No. 321 of 1993*** stating that the interests are being prejudiced on the ground that no shareholder meeting has taken place in the last 30 years. In the meanwhile, the Annual General Meeting (AGM) of applicant company was stayed by the Court vide order dated 09.05.1995 passed in the ***Suit No. 2450 of 1993*** and permission to hold AGM of the applicant company is pending for adjudication. However, the petitioner has suppressed material fact that the application dated 03.10.2018 filed by Respondent No. 2 seeking permission to hold the Annual General Meeting of the applicant and the

said application is opposed by the petitioner himself and Respondent No. 6.

2.3 It is averred that another suit has been instituted with the same contentions by the petitioner as ***Suit No. 349 of 1994 titled as 'Satwant Singh v. Surjit Malhan & Ors.'*** before the High Court of ***Delhi***, which has been transferred before the Ld. Additional District Judge, Tis Hazari Courts, Delhi. Therefore, petitioner cannot indulge into forum shopping by filing the different suits with the same contention at different forums.

2.4 It is submitted that the Petitioner challenging the validity of the AGM of the applicant company convened and held on 31.12.1993 and the appointment of Respondent No. 2 and 3 as director of the applicant is barred by limitation.

2.5 It is further submitted that there was a board resolution dated 10.02.1994. Thereafter, on 03.05.1997 and 13.03.2006 Board of Director's of Pure Drinks Limited included Respondent No. 5 and Respondent No. 6 and re-affirmed the validity of board resolution dated 10.02.1994 wherein transmission of shares of late Smt. Laj Kaur was recorded and thereafter, the same was reflected in the Annual Returns of the applicant, which has been filed with ROC for FY 2004-05 (due AGM date of 30.09.2005).

2.6 Moreover, the petitioner has suppressed the orders dated 11.12.2000 and 20.07.2005, wherein there was a lapse of the interim order dated 24.03.1994 passed in ***Suit No. 349 of 1994*** on account of

deletion of applicant from the suit on 11.12.2000 and also the dismissal of the suit for non-prosecution vide order dated 20.07.2005.

2.7 It is further submitted that the share certificates were issued to the beneficiaries under the signatures of Respondents No. 5 i.e. Harjit Kaur (wife of Charanjit Singh) and Respondent No.6 i.e. Ajit Singh (brother of petitioner) in the year 2006.

2.8 It is alleged that the challenge to the board resolution dated 10.02.1994 transmitting the shareholding held by late Smt. Laj Kaur in favour of her Class I legal heirs is ex-facie barred by limitation. The Petitioner's stand that transmission of shares held by late Smt. Laj Kaur was stayed by the Court vide order dated 24.03.1994 passed in **Suit No. 349 of 1994** is of no consequence.

2.9 The circular resolution dated 23.03.1994 is under challenge in the **Suit No. 2450 of 1993**. The operation of the circular resolution dated 23.03.1994 has been stayed by the Court vide its orders dated 09.05.1995 and 03.09.2003.

2.10 Moreover, the Memorandum of Understanding dated 07.05.1991 has further been relied upon and confirmed by the Petitioner in **Suit No. 1581 of 2012 titled as 'Sunita Singh v Jasnit Singh & Ors**. It is submitted that the applicant has duly filed its Annual Returns with the ROC and the same are available in public domain.

2.11 It is averred that the petitioner has given contradictory submissions and he is stating in the present main CP that applicant company is a family concern and in some other matters, he has stated it not to be a family concern. The Petitioner has contended that the

shares of applicant have not been held throughout by the members of the family of late S. Mohan Singh. It is submitted that Mr. A.P. Henningsen and Mr. Tim Harrison Kirk (outsiders) (held 10% shares) have been shareholders of applicant in the beginning.

2.12 It is further averred that the Petitioner has denied the applicant company being family concern in the ***civil suits:- Suit No. 2450 of 1993 (now numbered as CS No. 59038 of 2016) titled as 'Smt. Surjit Malhan v. Pure Drinks Ltd. and Others' and Suit No. 58393 of 2016 titled as 'Kaval Rasdip Singh and Anr. v. Pure Drinks Limited and Ors.' pending before the Ld. Additional District Judge, Patiala House Courts, New Delhi and Suit No. 2311 of 1993 titled as 'Pure Drinks Ltd. and Others v. Projects Private Investment Private Limited' before the Hon'ble High Court of Delhi.*** The present petition is liable to be dismissed as the same fails to make out any case of oppression and mismanagement. The present petition further fails to bring any malafide or unfair conduct on part of the Respondents in any manner.

2.13 Thereafter, the Petitioner has further sought to challenge the transmission of shares held by late Smt. Ranjit Charles Singh in the applicant in favour of her daughter, Mrs. Kavita Asif. However, it is submitted that Smt. Kavita Asif upon the death of her mother, late Smt. Ranjit Charles Singh, had made an application dated 30.01.2016 with the applicant seeking transfer of 280 shares standing in favour of late Smt. Ranjit Charles Singh in her favour. Smt. Kavita Asif had additionally sought transfer of approximately five (5) out of 39 shares

standing in the name of late Smt. Laj Kaur. The said request of Smt. Kavita Asif was considered by the Board of Directors of the applicant on 17.03.2016 and 285 shares were accordingly transferred in the name of Smt. Kavita Asif (280 being the shares that stood in the name of late Smt. Ranjit Charles Singh and 5 shares out of 39 shares standing in name of late Smt. Laj Kaur). The said transfer of shares in favour of Ms. Kavita Asif is admittedly to the knowledge of the Petitioner since 05.10.2016 upon filing of the Annual Return of the applicant for the FY 2015-2016 with the ROC.

2.14 Moreover, the notices were issued upon all the shareholders calling upon them to make payment of Rs. 50/- per share on account of the said partially paid-up shares. All the shareholders of the applicant, including the Petitioner himself, duly furnished the call money and the said partially paid-up shares became fully paid up. The Annual Return for FY 2014-2015 and FY 2015-16 (filed with ROC on 07.05.2016 and 05.10.2016 respectively) duly records the issuance of calls in respect of the said partly paid-up shares. Therefore, the paid-up capital of the applicant had become equal to the subscribed capital i.e. Rs. 5,00,000/- and this is duly reflected in the Annual Return for FY 2016-2017 (filed on 09.11.2017). Moreso, the Articles of Association of company do not contain any pre-emptive rights. So far as, transfer of shares of Laj Kaur is concerned, it is subject matter of civil nature and under the jurisdiction of civil court. Therefore, it cannot be challenged before this Tribunal.

2.15 It is alleged in the petition that the Respondents are seeking to induct a third party and create third party interest in the assets of the applicant. The present petition is directed towards the 99.9% subsidiary company of the applicant, namely C.J. International Hotels Ltd. ('CJIH') and subsidiary's asset namely Hotel Le Meridien, New Delhi. The Petitioner is seeking issuance of restraint orders for protecting the investments, asset and property of the applicant.

2.16 It is further alleged that the petitioner has suppressed the material fact that he has filed a petition bearing **C.P. No. 36 of 2022 titled as Satwant Singh v. C.J. International Hotels Ltd. before the Principal Bench, National Company Law Tribunal, New Delhi** seeking reliefs with respect to the said subsidiary Company and its asset being Hotel Le Meridien at New Delhi. However, Hon'ble NCLT Delhi has not granted any interim relief and has, instead, vide its order dated 02.06.2022 referred the parties to mediation before Hon'ble Mr. Justice Pradeep Nandrajog (Former Chief Justice of Rajasthan High Court) and Mr. Onkar Singh Kanwar. (Chairman, Apollo Tyres).

2.17 It is submitted that the Board of Directors of the applicant have conducted themselves fairly and in the interest of the applicant and its shareholders. Moreover, the petitioner cannot re-agitate the matters , which are pending adjudication before the other courts and abuse the process of law by indulging in the multiplicity of proceedings between the parties.

2.18. Furthermore, with respect to the filing of financial statements of applicant with the ROC, appointment of Respondent No. 4 as an

additional director and appointment of Respondent No. 7 as a statutory auditor the petitioner himself cannot challenge on the ground that the same has not been approved by the shareholders.

2.19. It is further alleged that the Petitioner has suppressed the fact that the Central Office of the applicant, wherein its accounting records were kept, was under siege of the protesting workmen from 2000 to 2007. applicant, after gaining control of the Central Office at Sardar Mohan Singh Building, found that the whole of the office in the said building had been ransacked. Several accounting, statutory and secretarial records belonging to the applicant were found to be missing or burnt; thereby leading to filing of police complaints for the said loss, but to no avail. The applicant was unable to trace its accounting record even after lodging of the police complaints and had to approach concerned third parties, banks to rebuild their accounts and books. The said facts have been admitted by the Petitioner in the ***civil suit bearing CS(OS) No. 400 of 2020*** filed by him on behalf of ***M/s DSS Enterprises Private Limited, filed before the High Court of Delhi.***

3. The reply was filed by the petitioner Satwant Singh, wherein it is stated that the Petitioner is eligible to present the Petition under Section 244 of the Companies Act, 2013, as he is holding 21.54% shares. The Respondents admit that the Petitioner is holding at least 16.12% shareholding.

3.1 The main company petition is filed for the oppression and mismanagement acts including:-

a) The Auditors' Report in the Financial Statements for 28 years, i.e. up to Financial Year 2020-21 filed with MCA on 18.11.2021,

explicitly states that " *...In the absence of satisfactory audit evidence, we are not able to form an opinion on the "true and fair" view of the Financial Statements of the Company.*"

- b) The applicant has admittedly not carried out any business (as per its objects) for over 30 years. Its Financial Statements of the applicant for FY 2022-23 categorically note: "*The Company had NIL income in the year 2023. Your company has had no business activity since 1991*". The applicant has no employees or any business activities as such.
- c) The Enforcement Directorate has begun an investigation into the affairs of the applicant, which the Petitioner learned of for the first time only in October 2022 when he was summoned;
- d) The Board of the applicant comprises of and is controlled by Respondent Nos. 2 to 4, amongst whom, while Respondent No. 2 holds merely 1.41% shares in the applicant, Respondent Nos. 3 and 4 are not Shareholders of the applicant and are, therefore, not eligible to be appointed as Directors of the Company. As per the filings made in the name of the applicant, the said directors hold a minuscule 5.7% of the shareholding in the applicant (which shareholding is also highly disputed) control the applicant. Respondent No. 2 has in fact been bed ridden for a long time, has been incapacitated, has been suffering from various serious ailments and is 94 years old. Respondent No. 6 who is still recognised as a Director by the MCA, has been excluded from the affairs of the applicant.

- e) There is a threat of imminent induction of a third party into the applicant. The illegal scheme of the Respondents has unravelled through a series of transactions and crystallised in May 2023 when Third Parties were illegally and purportedly inducted by Respondent Nos. 2 to 5 in another group company, namely Pure Drinks (Calcutta) Limited in a top-secret and totally illegal fashion.
- f) It is also suppressed that immediately after filing of the captioned Petition, a false and back-dated filing was made in the name of the applicant showing induction of Mrs. Soniya Chadha Gurnit Singh ("**Respondent No. 16**") as an "Additional Director" of the applicant on 14.02.2024. Therefore, no DIR-12 (as is mandatorily required to be filed under the Companies Act, 2013) in relation to the appointment is available on the MCA website. Her appointment has clearly been made in the back-date after filing of the Company Petition. Mrs. Soniya Singh Chadha Gurnit Singh was also inducted in another group company, Pure Drinks (Calcutta) Limited in May 2023 along with other outsiders in a similar manner. Records are being fabricated to give effect to the illegal schemes of the Respondent Nos. 2 to 5.

3.2 It is submitted that the applicant, in its own filings made with Statutory Authorities like the Ministry of Corporate Affairs/Registrar of Companies has admitted that it is a "closely held Family Company". it has been the contention/stand of Respondent Nos. 2, 3 and Respondent No. 5 that the applicant is a 'Glorified Partnership' and is

closely held by the members of one large family and that no outsider can be allowed into the applicant as such. However, they have illegally inducted an outsider into the Company.

3.3. It is further submitted that there exist a functional deadlock that has disabled the applicant from functioning at the Board or Shareholders' level. There were serious disputes as regards the Shareholding and Directorship of the applicant which was recorded in the family settlement agreements executed between the Promoters of the applicant. Moreso, the AGM of the applicant has been stayed for more than 30 years.

3.4. The Petitioner is not re-agitating issues before this Tribunal which are pending adjudication before other Courts or that the Petitioner is indulging in the multiplicity of proceedings between the Parties. The pleas raised by the Petitioner in the present Petition are not in contravention of Section 10 of the Code of Civil Procedure, 1908.

3.5 The present Petition is not directed towards the 99.99% subsidiary company, CJ International Hotels Limited. The applicant has various assets, details of which are set out in its Financial Statements. The Petitioner has never suppressed the filing of the Petition in relation to the 99.9% subsidiary company of applicant, namely CJ. International Hotels Ltd. ("**CJIH**"). It is submitted that the Petitioner has preferred Company Petition under Sections 241-242 being CP 36/2022 titled as "*Satwant Singh v. CJ International Hotels Limited and Ors.*" in relation to CJIH, which is presently pending before the Principal Bench of the Hon'ble NCLT Delhi. The factum of filing CP 36/2022 in relation to CJIH

was duly disclosed in the captioned Company Petition. Applicant is not a party to the said CP No. 36/2022 nor are the affairs of applicant the subject matter of the CP 36/2022.

3.6 The petitioner has never suppressed the fact that the Petitioner and Respondent No. 5 have been referred to mediation in the CJIH Petition. However, the affairs of the applicant were not part of the mediation and was never discussed in the mediation. Therefore, the Petitioner is not indulging in *forum shopping* and multiplicity of legal proceedings.

3.7. It is reiterated that the appointment of Respondent Nos. 2 and 3 is/was illegal and void ab initio. The Petitioner has never suppressed the validity of the AGM of the applicant held on 31.12.1993 has attained finality between the Parties. It is submitted that the scope of the Order dated 05.02.1994 is misinterpreted as the order nowhere mentions the sanction to the Resolution dated 31.12.1993. The Meeting dated 31.12.1993 was not illegally convened and held.

3.8 It is submitted in the reply of Respondent No.1 (Satwant Singh) that the Application filed by Project Investments Private Limited to restrain the holding of the AGM was dismissed. The petitioner has that the said Order dated 05.02.1994 states that the AGM dated 31.12.1993 was validly held or even remotely recognizes the so-called newly constituted Board of Directors. Further, the Petitioner was not even a party to the said Suit No. 322 of 1993 and any judgment passed in the said Suit cannot bind the Petitioner. The Order dated 05.02.1994 or Judgment dated 25.04.1994 has not attained any finality. The Petitioner

is not at all bound by it. Furthermore, the purported Financial Statements in the name of the applicant are void and non-est. The Financial Statements for FY 1992-1993 to 2018-19 are filed by the applicant company and Respondent No.2 to 4 without giving notice or prior intimation to the petitioner.

3.9 It is submitted that Financial Statements for FY 1992-1993 to 2018-19 are not barred by limitation. It is reiterated that each time a fresh filing is made reiterating the previous false entries, the cause of action recurs. It is reiterated that the filings of Annual Returns, Financial Statements and other filings made with the MCA were being falsified and the Petitioner. No prior intimation was given to the Petitioner before any filing was made in the name of the applicant. There were illegal and falsified statutory filings made in the name of the applicant. Furthermore, in any case, on account of the COVID-19 pandemic, various Orders have been passed by the Hon'ble Supreme Court, excluding certain times for the purposes of calculation of the period of limitation. It is further submitted that the Petitioner has not suppressed the fact regarding the Application dated 03.10.2018 filed by Respondent No. 2 in Suit No. 2450. The said Application is only a ruse to perpetuate further illegalities. The Petitioner only opposed the holding of the AGM of the applicant for the reason that permission to hold the AGM was sought for the purpose of giving a seal of approval to the allotment/transfer of Shareholdings and to the dominant power of the Board of Directors by the Respondents. Further, the holding of the AGM of the applicant was also opposed by the Petitioner on the ground

that several Shareholding disputes and disputes pertaining to the Directorship of Respondent Nos. 2 to 4 were already pending adjudication. Further, the Respondents are fabricating the Statutory Filings (Annual Returns and Financial Statements) in the name the applicant. The filings being made in the name of the applicant are a total sham and contain a note from the Auditor that the same does not reflect a 'true and fair view' of the Financial Statements.

3.10 It is submitted that the Petitioner is not estopped by his own conduct from challenging the filing of Financial Statements of applicant with the ROC, appointment of Respondent No. 4 as an Additional Director and appointment of Respondent No. 7 as a Statutory Auditor on the ground that the same has not been approved by the Shareholders.

3.11 It is further submitted that Mr. D.R. Bahl (of R.N. Marwah and Co.) was appointed as the Statutory Auditor, it was under the agreement of the Petitioner, Respondent No. 5 and Respondent No. 6 recognising their rights as vital stakeholders of the applicant. However, a new Auditor has been appointed without the consent and consultation of the Petitioner and Respondent No. 6. Every opportunity was available to seek the consent of the Petitioner and Respondent No. 6 but this was deliberately not done. The Statutory Auditor has been changed for falsification and tampering with the records of the applicant. Further, the claims of Shareholding and Directorship was made and no accountability to the Shareholders was intended. If that was indeed the intention, consent/approval of the Promoters (i.e. the

Petitioner and the Respondent No. 6) should have been sought (as was previously done). Therefore, an application filed to hold AGM was false.

3.12 It is averred that the challenge to the Board Resolution dated 10.02.1994 is not belated. The challenge to the transmission of the Shares of Smt. Laj Kaur is not at all being raised after a lapse of 30 years. Such an averment is again totally contradicted by the filings made on behalf of the applicant wherein transmission of certain Shares of Late Smt. Laj Kaur is being shown to be made as recently as in FY 2020-21 in the disputed Annual Return. In the latest Annual Return of the filed in the name of the applicant. Shares still appear in the name of Late Smt. Laj Kaur. It is further averred that the Board Resolution dated 10.02.1994 has not been given effect to by the applicant. Moreover, the Interim Order dated 24.03.1994 passed in Suit No. 349 of 1994 has not lapsed on account of the deletion of applicant from the Suit, and dismissal of the said Suit for non prosecution vide Order dated 20.07.2005 and this has not been suppressed by the Petitioner. It is reiterated that by Order dated 18.04.2007, Suit No. 349/1994 was restored due to which the Interim Order dated 23.04.1994 was also automatically restored and was so duly acknowledged in the Annual Return filed in the name of the applicant in Annual Return for FY 2009-2010. It is denied that this has been carried on by the applicant vide its board resolution dated 10.02.1994. It is further submitted that the transmission of shares of late Smt. Laj Kaur is not only a civil dispute pertaining to her inheritance.

3.13 The petitioner has further averred that the MOU dated 07.05.1991 has been referred completely out of context and the Application makes prejudicial pleas on a selective reading of the said MOU. The inheritance of the Shares of Smt. Laj Kaur was not yet finalised, as at the time of her death, various liabilities owed by her were to be adjusted against her assets, including bank deposits, Shares, jewellery, etc. The said MOU while acknowledging that S. Daljit Singh inherited 1/7th Share in the estate of Smt. Laj Kaur referred to the notional inheritance, while the actual inheritance was to occur subsequently. The MOU shows that S. Daljit Singh and S. Charanjit Singh (and consequently the Petitioner) inherited the Shares, while the other assets of Smt. Laj Kaur was inherited by the other legal heirs i.e. daughters. It was agreed that S. Sarvapriya Singh (son of one of the daughters of Late Smt. Laj Kaur who had also passed away) would also receive 1/7th Share in Pure Drinks Group Companies Shares held in the name of Late Smt. Laj Kaur. The respondents did not mention the distribution of other assets of Smt. Laj Kaur, including her jewellery. Therefore, the claim of Petitioner to the estate of Smt. Laj Kaur is not only through S. Daljit Singh. The Petitioner is the adoptive son of S. Charanjit Singh and his claim to the estate of Smt. Laj Kaur is not only through S. Daljit Singh (as his natural son) but also through S. Charanjit Singh (as his adoptive son).

3.14 It is further averred that the transmission of Shares to Smt. Kavita Asif was decided by the Board of Directors in March 2016.

However, they were 'Paper Meetings' and fabricated resolutions were

created. The meetings are shown to have been held in Delhi, but Respondent Nos. 2 and 3, who are residents of Chennai never even come down for such meetings. No Minutes or even draft Minutes of such meeting were even circulated to the Directors, including Respondent No. 6. In any event Respondent No. 4 as an Additional Director has been illegally appointed again and again, year on year, which is a recurring and continuing cause of action. Further, the auditor did not stand appointed by the Board of Directors in terms of Section 139 (8) of the Companies Act, 2013 in September 2019. No Board Meeting was held on 07.12.2015. Furthermore, the Articles of Association contain pre-emptive rights in favour of the other shareholders. The Petitioner has not admitted anything in CS (OS) No. 400 of 2020 unrelated to applicant and the transferability of shares.

4. The rejoinder was filed by the applicant i.e. Pure Drink Ltd reiterating the facts stated in the application. Further, they have submitted that the present petition raises allegations which are ex facie barred by limitation, salutary principles of estoppel, provisions of law have raised issues which have attained already finality or are already the subject matter of civil suit which were filed and are pending for adjudication. Further, it is submitted that the Petitioner has failed to make out any case of oppression and mismanagement and fails to contain mandatory pleadings required to maintain such a petition. The petition further fails to set out any case of lack of probity or fair dealing to the Petitioner in the matter of his rights as a shareholder and that the Respondent Nos. 2 to 4 and 16 are not acting against the interest of

Applicant Company or illegally controlling the Board of Applicant Company.

There are no illegal filing of financial statements or annual returns and they do not contain false information or do not reflect true and fair view of the accounts of the Applicant Company. Further, it is averred that there has not been any suppression of the factum of appointment of Respondent No. 16 as an Additional Director on 14.02.2024 from this Tribunal. The DIR-12 stood filed with ROC on 26.02.2024 and the same has been duly disclosed in the reply filed by the applicant along with reasons for the same. It is further averred that the records of the Applicant are not falsified or fabricated in any manner. The allegation of the Petitioner that attempts are being made to induct third parties are utterly misconceived, misplaced and frivolous pleas. Further, it is submitted that there are no restriction in the transferability of the shares of the applicant in the Articles of Association ('**AOA**') and the same do not contain any pre-emptive right in favour of any shareholder upon transfer of shares by other shareholders. Furthermore, the Petitioner even on demurrer has no *locus* to raise any issue regarding the shareholding held by other shareholders. The Petitioner has filed an appeal bearing Comp. App. No. 128-130 of 2024 before the Hon'ble National Company Law Appellate Tribunal challenging the orders passed by this Tribunal wherein the Petitioner has again raised pleas which are contradictory to the pleas raised by him in other legal proceedings. Therefore, the Petitioner continues to defend Suit No. 2450 of 1993 and Suit No. 58393 of 2013 on the stand that the applicant is not a closely held family concern or a glorified partnership and in contrast, the Petitioner is seeking to prosecute the present petition on the ground that applicant is a closely held family concern. The Petitioner cannot abuse the process of law and raise pleas in different forums which are contradictory to

each other. It is stated that there is no functional deadlock which has disabled the applicant from functioning at the Board level. It is a matter of record that the Annual General Meeting (AGM) of applicant has been stayed by the Court vide order dated 09.05.1995 passed in the Suit No. 2450 of 1993. The Petitioner has suppressed the material fact that application dated 03.10.2018 filed by Respondent No. 2 seeking permission to hold the Annual General Meeting of the applicant is pending adjudication in Suit No. 2450 of 1993 and the said application is being opposed by the Petitioner himself and Respondent No. 6 in the said proceedings. It is further stated that Respondent No. 2 and 3 have not illegally inducted Respondent No. 4 on the Board. However, Respondent No. 4 has been additional director of the applicant since 13.12.2017 and holds requisite shareholding to hold the said office in terms of AOA of the applicant. The allegation of the Petitioner that attempts are being made to induct third parties are utterly misconceived, misplaced and frivolous pleas. It is further stated that the Petitioner has failed to perform his fiduciary duties towards the other Pure Drinks Group of Companies such as Ws Campa Beverages Private Limited, M/s Mohan Bottling Company Private Limited, Mis Punjab Beverages Private Limited, Mis Oriental Building and Furnishing Company Limited, wherein he is a director and has prevented the said companies from carrying out their statutory filings with the ROC. The said companies are in default solely on account of the mismanagement by the Petitioner and Respondent No. 6. Further, the Respondent Nos. 2 to 5 are not carrying out any course of oppression or mismanagement. The Respondent No. 5 has ceased to be a director of the applicant since 13.12.2017. The applicant is not a private company and the directors of the applicant have

never failed to perform their duties. Any allegation raised by the Petitioner prior to 2021 is liable to be discarded being barred by laws of limitation.

5. The sur-rejoinder was filed by the petitioner i.e. Satwant Singh reiterating the facts mentioned in the reply. It is further stated that no the DIR-12 stood filed with ROC on 26.02.2024 and the same has been duly disclosed in the Reply filed by the applicant along with reasons for the same. It is stated that appointment of Respondent No. 16 has been made in the "back-date" after filing of the Company Petition to defeat the rights and interests of the Petitioner. The applicant has been defunct for over the last 30 years. There can be no other purpose of inducting a new "Director" immediately after filing of the captioned Petition, rather it was done for share transfer. However, there are restrictions on the transferability of the shares of the applicant and the Petitioner has locus to raise any issue regarding the shareholding held by other Shareholders. The applicant as well as Board of Directors of applicant and the Respondent No. 5 have also admitted that applicant is a "closely held Family Company". Further, Respondent Nos. 2, 3 and 5 in court filings on Affidavit have also taken the stand that the applicant is a 'Glorified Partnership' and is closely held by the members of 'one large family', and that 'no outsider' can be allowed into the applicant. Even other Shareholders of the applicant like Late Mrs. Kaval Rasdip Singh (mother of Soniya Singh Chadha and Devinjit Singh) and purported legal heirs of Mrs. Ranjit Charles Singh (Kavita Asif) have taken a stand on Affidavit in court proceedings that the applicant is a "Family Company" in the nature of a "Quasi-Partnership". However, the Respondents are illegally trying to induct an outsider into the applicant for their personal enrichment. Furthermore, the Financial Statements in the name of

the applicant are void and non-est, and in fact contain the following note which makes it imperative to look into the accounts of the applicant:

"In the absence of satisfactory audit evidence, we are not able to form an opinion of the "true and fair" view of the Financial Statements of the Company"

(Emphasis Supplied)

It is submitted that it is evident from the MOU that the inheritance of the shares of Smt. Laj Kaur was not yet finalised, as at the time of her death, various liabilities owed by her were to be adjusted against her assets, including bank deposits, shares, jewellery, etc. The said MOU was on the premise that the assets to be inherited from Smt. Laj Kaur was not yet clear and the same could come to the estate of S. Daljit Singh either in the form of Bank Deposits, Shares or Jewellery. The MOU only recorded the understanding of the legal heirs of S. Daljit Singh as to how the distribution would be done depending upon the nature of assets which would be inherited. Furthermore, the MOU while acknowledging that S. Daljit Singh inherited 1/7th Share in the estate of Smt. Laj Kaur only referred to the notional inheritance whereas the actual inheritance was to occur subsequently. Therefore, the MOU corroborates the Petitioner's stand that S. Daljit Singh and S. Charanjit Singh (and consequently the Petitioner) inherited the Shares, while the other assets of Smt. Laj Kaur was inherited by the other legal heirs, particularly her daughters. It was also agreed that S. Sarvapriya Singh (son of one of the daughters of Late Smt. Laj Kaur who had also passed away) would also receive 1/7th Share in Pure Drinks Group Companies Shares held in the name of Late Smt. Laj Kaur. It is further submitted that the Petitioner has also

preferred an Appeal against the Order dated 26.09.2022 being CA No. 394/2022 titled Satwant Singh v. Harjit Kaur & Ors., which is presently pending adjudication before the Patiala District Court. As a matter of fact, even Pure Drinks (New Delhi) Ltd. and Respondent No. 6 herein have preferred an Appeal against the said Order dated 26.09.2022 being CA No. 395/2022 titled Pure Drinks (New Delhi) Limited & Anr. v. Harjit Kaur & Ors. and the same is also currently pending adjudication before the Patiala District Court. The purported allegations raised on behalf of the applicant are a subject matter of separate proceedings as mentioned above, and do not concern and have nothing to with the present Company Petition for oppression and mismanagement concerning the affairs of the applicant. It is submitted that the Enforcement Directorate (ED) is investigating the applicant Company's dealings under the provisions of the Prevention of Money Laundering Act, 2002 inter alia in respect of Krishna Developers Private Limited and other assets of the applicant. Therefore, the Financial Statements are being fabricated by Respondents No. 2 to 5, and there is the requirement for the accounts to be recasted. It is averred that the property at 9, B.G. Kher Road, Worli Naka, Worli, Mumbai are not misconceived and belated. It is further averred that land and building is being shown in the Balance Sheets of the Company year on year, and the said property in Worli is repeatedly referenced in the Balance Sheets of the applicant.

6. We have heard the learned counsels for the applicant, petitioner in main CP as well as respondents and have also perused the record carefully.

7. As per the directions given by the Hon'ble NCLAT vide order dated 29.04.2024, the appeal was disposed of while directing this Tribunal to hear

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arguments on maintainability of the main petition and interim relief sought therein.

8. It is admitted by the petitioner in his reply to the application (CA No. 70/2024) that:-

a) The applicant company has not carried out any business (as per its objects) for over last 30 years. The Financial Statements of the applicant for FY 2022-23 categorically note: *"The Company had NIL income in the year 2023. Your company has had no business activity since 1991"*. The applicant as such has no employees or any business activities.

b) The Enforcement Directorate has begun an investigation into the affairs of the applicant company about which the Petitioner learnt of, for the first time only in October 2022 when he was summoned;

The petitioner has placed reliance on complaint registered with ED in respect of transaction with Krishna Developers Private Limited for the transaction taken place in June, 2007 to sell industrial part of the Property entered into by applicant Company for the purposes of making payment to PIPL (for settlement of disputes) to whom Petitioner had sought to make allotment of shares in collusion with Respondent No. 6. It is submitted that to settle disputes with PIPL, a charge was created in favour of the Registrar General, Delhi High Court on the Worli Property and title deeds were also placed in safe custody of the Registrar General. It is pertinent to note that the Order dated 04.06.2007 passed in OMP No. 321/2007 lays down the modalities agreed for settlement with PIPL and the same involved sale of Worli Property to Krishna Developers Private Limited. The amount of Rs. 10 Cr realized from sale was to be paid to PIPL. Balance Sale Proceeds were to be realized

towards clearing liabilities of labour dues, pending Section 138 proceedings, sales tax, electricity dues, water dues, property tax and payments to Court Commissioners. The balance sale consideration (left after discharging aforesaid payments) was to be deposited with the Registrar General. It is submitted that the amount of Rs. 30 Crore was received from Krishna Developers Private Limited under signatures of Respondent 6 as under the directions of Hon'ble Bombay High Court issued vide Order dated 18.04.2007 and Hon'ble High Court of Delhi in Order dated 04.06.2007 passed in OMP No. 321/2007:

- (i) Amount of Rs. 55 Lakhs deposited in Bombay High Court on 13.02.2007.
- (ii) Amount of Rs. 11,45,37,956/- Lakhs deposited in Bombay High Court on 11.06.2007.
- (iii) Amount of Rs. 10 Cr paid to PIPL.
- (iv) Amount of Rs. 7,99,62,044/- paid to Deepak Chintnis Chiparikar & Co.

c) AGM of the applicant company has been stayed vide Court's order dated 09.05.1995 passed in Civil Suit No. 2450/1993 which is still pending for adjudication.

So far as the investigation of the Enforcement Directorate is concerned, it is an independent proceeding. Moreover, certain directions have already been issued by Hon'ble Bombay High Court and Hon'ble High Court of Delhi as mentioned above.

In the backdrop of the facts, since the applicant company has not carried out any business for the last 30 years, then, there cannot be an apparent case of

oppression and mismanagement. However, it is contended on behalf of the petitioner that there are a number of instances of oppression and mismanagement at the ends of respondents especially respondent no. 2 to 5 and Respondent no. 7 and 16. Thus, the cardinal point for determination in the present application is whether the main petition bearing no. CP No. 9/Chd/Pb/2024 filed by the petitioner i.e. Satwant Singh is maintainable or not.

At the outset, it is worthwhile to mention that eligibility for filing a petition under Section 241-242 of the Companies Act, 2013 and maintainability of such application are two different aspects. The concept of maintainability is having much wider scope than the eligibility of the petitioner. Although, petitioner Satwant Singh is eligible to file a petition under Section 241-242 of the Companies Act, 2013 claiming his share i.e. 16.12% more than 10% of total shareholding which is otherwise still under dispute pending in the civil court, yet this Tribunal has to advert on the issue whether in presence of scores of litigation pending before the different courts and fora, the present petition is maintainable and whether a prima facie case of oppression and mismanagement is made out on the basis of pleadings set out by the petitioner.

9. Now, coming to the pendency of the litigation in different courts and reliefs claimed, it is submitted by the applicant that the Petitioner has challenged the AGM dated 31.12.1993 and appointment of Respondent No. 2 and 3 in the Suit No. 349 of 1994. The Petitioner has not withdrawn the said suit till date and the same is lying adjourned sine die since 14.02.2008. The Petitioner cannot re-agitate the same issue in the present proceedings in light of the pendency of the said proceedings and thus, the Petitioner cannot be

permitted to undertake forum shopping. Therefore, the present petition is liable to be dismissed. The said challenge is also barred by Section 10 of CPC. Reliance is placed on ***Ragbir Singh v M/s Sikri Multiplex Cinema Pvt. Ltd., 2009 SCC Online P&H 3544, Sardar Iqbal Singh v Sardar Gurbaksh Singh, 2000 (37) CLA 99 (CLB)***. The AGM resolution dated 31.12.1993 has attained finality qua the applicant. It is averred that the petitioner cannot be permitted to raise challenge to the appointment of Respondent No. 2 and 3 as directors in the AGM dated 31.12.1993 as the said issue has attained finality. It is pertinent to note that the M/s Projects Investment Private Limited, a third party to whom shares were allegedly allotted by Petitioner and Respondent No. 6 in the alleged board meeting dated 09.10.1993 had challenged the holding of AGM on 31.12.1993 in Suit No. 322 of 1993 titled as '***Project Investment Private Limited v Pure Drinks Limited***' filed at District Court, Patiala. The Ld. Court vide detailed order dated 05.02.1994 AGM was challenged and court held that AGM dated 31.12.1993 was validly held and new board was recognized. No appeal was filed against the said order by PIPL. Thereafter, on 25.04.1994, the said suit was dismissed and the same has also attained finality. The petitioner was duly present and heard at the time of passing of the said orders. The another litigation is pending bearing ***Suit No. 2450 of 1993 titled as 'Surjit Malhan v Pure Drinks Limited & Ors.*** wherein the Annual General Meeting (AGM) of applicant was stayed by the Court vide order dated 09.05.1995 and permission to hold AGM of applicant is pending for adjudication. Further, the application dated 03.10.2018 filed by Respondent No. 2 seeking permission to hold the Annual General Meeting of the applicant and the said application is

opposed by the petitioner himself and Respondent No. 6. Thus, petitioner is estopped by his own act and conduct to take the plea of deadlock in conducting affairs of the applicant company.

Moreover, the appointment of Respondent No. 2 and 3 cannot be challenged now as the appointment was made in the year 1993 and the present petition has been filed in the year 2024 i.e. after the lapse of more than 30 years. Since, it is well settled law that there is a limitation period of 3 years for raising any issue and therefore, the present petition to that effect is time barred.

10. Further, regarding the appointment of Respondent No.4 and 16 as Additional Directors, it is submitted by the applicant that the Petitioner has challenged the appointment of Respondent No. 4 as Additional Director which took place in the board meeting dated 13.12.2017 for which Form DIR-12 was duly filed by the applicant with the ROC. Thus, the challenge to appointment of Respondent No. 4 as Additional Director is barred by delay and laches. Moreover, the petitioner is estopped from raising any grievance with respect to appointment of Respondent No. 4 as additional director subject to approval of shareholders as it is the Petitioner himself who has opposed the holding of AGM in Suit No. 2450 of 1993. It is further submitted that the appointment was carried out by the applicant to keep the Board of Directors functional as Respondent No. 5 and Respondent No. 6 had been disqualified to be directors owing to the failure of Petitioner and Respondent No. 6 to file statutory filings of Financial Statements with ROC for other group companies such as Campa Beverages Pvt Ltd. applicant is required in law to have minimum of three directors by virtue of Section 149 of the Companies Act, 2013. However,

respondent no.4 will be regularised only upon the approval in AGM which is stayed by the order dated 09.05.1995 in the **Civil Suit No. 2450 of 1993 titled as 'Surjit Malhan v Pure Drinks Limited & Ors.'**

It is submitted by the applicant that Respondent No. 16 was appointed as additional director on 14.02.2024 to ensure that Board of Directors remains functional at all times, in case anything happens as regards to the well-being of Respondent No. 2 who is admittedly than 90 years old and the applicant remains compliant with Section 149 of the Companies Act, 2013 requiring it to have 3 directors. Respondent 16 is daughter of Mrs. Kaval Rasdip Singh and has been a shareholder of the applicant since inception. Moreso, appointment of additional directors 4 and 16 is to be ratified by AGM as per Section 161 of the Companies Act which states as under:

*161. Appointment of additional director, alternate director and nominee director.— (1) The articles of a company may confer on its Board of Directors the power to appoint any person, other than a person who fails to get appointed as a director in a general meeting, as an additional director at any time who shall hold office up to the date of the next annual general meeting or the last date on which the annual general meeting should have been held, whichever is earlier but the holding of said AGM was stayed vide order dated 09.05.1995 in the **Civil Suit No. 2450 of 1993 titled 'Surjit Malhan v Pure Drinks Limited & Ors.'***

11. Regarding, filing of financial statements and appointment of respondent no.7 as a statutory Auditor, it is submitted on behalf of the applicant that the Petitioner has admitted that the previous auditor of the applicant Company has resigned in 2019. However, the applicant company cannot operate without

having any statutory auditor and the same would be in violation of the provisions of Companies Act, 2013. In view of the same, a new Auditor appointed in terms of Section 139(8) of the Companies Act, 2013 on 14.09.2019. Moreover, the Petitioner has suppressed that Respondent No. 2 had filed an application dated 03.10.2018 seeking permission to hold AGM of the applicant Company which is further opposed by the Petitioner himself and is pending consideration in Suit No. 2450 of 1993.

In the circumstances, petitioner is estopped by his own act and conduct challenging the appointment of statutory auditor when he himself is opposing the holding of AGM of the applicant company for ratification of appointment of Respondent No. 4 and 16 as additional directors and appointment of Respondent No. 7 as Statutory Auditor.

It is worthwhile to note that the appointment of the statutory auditor is the subject matter which is to be decided by the Board of Directors. The holding of AGM was already stayed by the Hon'ble Delhi High Court vide order dated 09.05.1995. Moreover, it is to be noted that the company was not carrying on any business from the last 30 years, thus, the auditors have nothing to do with the filing of the statutory compliances with ROC. In this way the acts of Respondent Nos. 2,3,4 and 16 are not going to cause any prejudice to the rights of the petitioner and particularly, the applicant company whose interest is paramount. The contention with respect to the filing of the Financial Statements for FY 1992-1993 to 2018-19 by the applicant company are concerned, the said contention is barred by limitation period of 3 years and should have been challenged within the limitation period of 3 years, particularly when financial statements are in public domain.

12. The main contention of the petitioner is with respect to transfer of shares and induction of outsider, creation of third-party interest in assets of Applicant Company. It is pertinent to note that Articles of Association (AoA) do not contain any restriction on transferability of shares of the shareholders. Article 15 only provides that previous sanction of the Board of Directors is required for any transfer of shares to be registered by the Company. There is no clause in AOA providing shareholders with pre-emptive rights. In absence of any pre-emptive rights contained in the AoA, the shares are freely transferable. Further, there is no challenge to the AoA of the applicant. Moreover, the sale of one's shares to an outsider, even if shares constitute a majority percentage, can never be termed as oppressive, as long as there is no pre-emptive clause in the AoA in favour of other shareholders. Reliance is placed on ***V.B. Rangaraj v V.B. Gopalkrishnan, 1992 (1) SCC 160; Pushpa Katoch v Manu Maharani Hotels Limited, 2001 SCC Online CLB 49; Pushpa Katoch v Manu Maharani Hotels Limited, 2005 (83) DRJ 246 and Krishna Paul v Calcutta Chemical Co. Ltd., 1998 SCC Online CLB 48.*** The Shares of a shareholder is an individual asset over which the Petitioner has no claim. No documents in support of the claims of the Petitioner have been placed on record or no legal proceeding has been initiated by the Petitioner in past 30 years seeking rectification of the records of the applicant company if at all required.

It is contended on behalf of the petitioner that in a closely held family company even when AoA does not contain a right of pre-emption, induction of an outsider is illegal. Reliance has been placed upon the judgment, ***Saibal***

Choudhury v. Mahabir Tea Estate, [2014]121C LA51(CLB)

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“11. Even though learned counsel for the applicants has argued that there is no specific restriction on transfer of shares to outsiders in the articles of association of the respondent-company, the above ratio of the judgment cannot be lost sight of wherein the responsibility of the directors in a closely held company has been specified to make proper disclosure to the existing shareholders when further shares are issued, regardless of the fact that in the articles of association of the company, there may not be any preemption right specified in favour of the existing shareholders. In addition, the petition is yet to be heard on merits and only interim order has been passed directing maintenance of status quo in regard to share capital of the respondent-company which cannot be recalled or amended or set aside at this stage without hearing the arguments on the issue by both sides. Therefore, no interference is called for as regards the interim order dated February 14, 2013, granting relief by way of maintenance of status quo of the shareholding of respondent No. 1 company.”

(emphasis supplied)

13. Thus, it is contended on behalf of the petitioner in the main CP that applicant is a closely held family company which can be ascertained from the Financial Statements of FY 2014-15 signed by R5 made with MCA and in the Suit No. 2311/1993 wherein it is mentioned that,

“That P1 (Pure Drinks Limited) and P2 (Pure Drinks (Calcutta) Limited) though the family of Late Sardar Mohan Singh has always held public companies. There has been no outsider at any time ever since incorporation of these companies and at all points of time.”

(emphasis supplied)

Moreover, it is submitted in the pleadings filed in the Suit No. 2450/1993 by the petitioner in the main CP stating that,

“As per the clear understanding between the family members of S. Mohan Singh, the shares were never to be sold to an outsider and the Company was to continue as a closely knit family concern.”

“Defendant No. 5 (Mr. Satwant Singh) has admitted in the earlier Written Statement that Defendant No. 1 (Pure Drinks Limited) and Defendant No.2 (Pure Drinks (Calcutta) Limited) are glorified partnerships and family concern... Mr. A.P. Henningsen and Mr. Tim Harrison Kirk, representatives of Coca Cola were initially shareholders, and that too for a brief period of time.”

However, this contention of Ld. counsel for petitioner is devoid of force

because Article 3 and 15 of AoA provides as under:-

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3. The Company is a "PRIVATE COMPANY" within the meaning of Clause (iii) of Sub-section 3 of the Companies Act, 1956, and accordingly the following provisions shall have effect, namely that the Company by its Articles :

- a) restricts the right to transfer its shares,
- b) limits the number of its members to fifty not including :
 - i) persons who are in the employment of the Company, and
 - ii) persons who, having been formerly in the employment of the Company, were members of the Company while in that employment and have continued to be members after the employment ceased; and
- c) prohibits any invitation to the public to subscribe for any shares in, or debentures of the Company.

Provided that where two or more persons hold one or more shares in the Company jointly, they shall, for the purposes of this definition, be treated as a single member.

TRANSFER OF SHARES

15. No transfer of any shares shall be made or registered without the previous sanction of the Directors, except when the transfer is made by one member of the Company to another or to a member's wife or child or children or his heirs, and the Directors may decline to give such sanction without assigning any reason and shall involve a contravention of clause 3 of these Articles.

The applicant has contended that the Petitioner has suppressed his own pleadings that the applicant is not a closely held family concern. In Suit No. 2450/1993 petitioner has stated that the applicant has never been a partnership concern or that there had been any understanding between the family members of S. Mohan Singh that shares were never to be sold to outsider or the same was to continue as closely held knit family concern. The outsiders have been shareholders of the applicant since inception. The Petitioner has denied that the applicant is a glorified partnership. Moreover, in ***Kaval Rasdip Singh v Pure Drinks Limited, CS (OS) No. 2637 of 2012***, the

Petitioner in parawise reply denied applicant i.e. Pure Drinks Limited to be a closely held family concern. Moreso, the allotment of shares to PIPL, a third party was inducted by the Petitioner himself which was settled by the applicant and the shares issued to PIPL were agreed to be cancelled. The Petitioner wrongly opposed the passing of the compromise decree in terms of the settlement arrived between the parties. Therefore, the Respondent No. 1 (Satwant Singh) was burdened with an additional amount of Rs. 21,01,16,114/- towards interest. It is further submitted that the Memorandum of Association of the applicant i.e. Pure Drinks Limited records a non-family member, Mr. Tim H. Kirk as the shareholder and director. Also, Article 22 of the Articles of Association records that Maharaja of Patiala (a non-family member) was a director of the applicant. Therefore, the said constitutional documents of the applicant show that the applicant is not a family concern. The Board of Directors of the applicant has been duly functional without any hindrance or deadlock. Moreover, there is No case made out for oppression and mismanagement.

14. Regarding, the transmission of Shares of Smt. Laj Kaur it is submitted by the applicant that in the board meeting dated 10.02.1994, 210 shares (out of total 249 shares) held by late Smt. Laj Kaur were transmitted in 7 equal parts to the estate of her children namely late S. Daljit Singh, late S. Charanjit Singh, Smt. Surjit Malhan, late Smt. Kaval Rasdip Singh, late Smt. Ranjit Charles Singh, late Smt. Surinder Judge and late Smt. Harjeet Kaur as per law of intestate succession. This resolution has been given effect to by the applicant. By circular resolution dated 23.03.1994, Petitioner and Respondent

No. 6 have sought to transmit the said shares of late Smt. Laj Kaur to
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themselves and late S. Sarvpriya Singh (son of late Smt. Harjeet Kaur). However, the board resolution dated 10.02.1994 has been sought after 30 years in present petition and barred by limitation. The Reliance is placed on ***Pawan Kumar v Newtech Agro Products, 2017 SCC Online NCLT 1389 and the judgment passed by Hon'ble NCLAT upholding the said judgment, 2017 SCC Online NCLAT 387; Ram Gopal Patwari v Patwari Exports, 2010 SCC Online CLB 136 and Dilip Kumar Ari v Matrikalyan Nirsong Home Pvt. Ltd, CP No. 179 of 2014, NCLT Kolkata.*** It is further submitted that the applicant has reflected the transmission of shares of late Smt. Laj Kaur in the Annual Returns since FY 2005 (AGM dated 30.09.2005). The said annual return has been signed by Respondent No. 6 (Mr. Ajit Singh). No challenge has been made to the said Annual Return in any of the legal proceedings till date. It is averred that the challenge to board resolution dated 10.02.1994 is contrary to the MoU dated 07.05.1991 entered between the Petitioner, Respondent No. 6 and their sisters being legal heirs of S. Daljit Singh wherein Petitioner and Respondent no. 6 have acknowledged that S. Daljit Singh inherited only 1/7th share in the estate of Smt. Laj Kaur. The said MoU has been relied upon by the Petitioner in ***Suit No. 509/1993 titled as S. Ajit Singh & Anr. v Jasnit Singh & Ors. and Suit No. 1581 of 2012 titled as Sunita Singh v Jasnit Singh & Ors.*** It is further noted that the Transmission of shares of Smt. Laj Kaur is inherently a civil dispute pertaining to her inheritance. The reliance is placed on ***Aruna Oswal v Pankaj Oswal Pvt Ltd, 2020 (8) SCC 79 and Sangramsinh P. Gaekwad.*** Moreover, the said issue is the subject matter of Suit No. 2450 of 1993 titled as '***Surjit Malhan v Pure Drinks Limited & Ors.***' pending in Patiala House Court, Delhi.

In view of the above contentions by both parties, it is seen that the shares and the rights in the applicant company have been obtained by way of inheritance. The shares in the company are distributed as an inherited share. The Memorandum of Understanding dated 07.05.1991 was entered between the Petitioner, Respondent No. 6 and their sisters being legal heirs of S. Daljit Singh, wherein Petitioner and Respondent no. 6 have acknowledged that S. Daljit Singh inherited only 1/7th share in the estate of Smt. Laj Kaur. The claim of Petitioner to the estate of late Smt. Laj Kaur (grandmother of the petitioner who died intestate on 29.08.1983) is through his father- late S. Daljit Singh and limited to his father's entitlement. The said Memorandum of Understanding dated 07.05.1991 has been relied upon by the Petitioner in ***Suit No. 509/1993 titled as 'S. Ajit Singh & Anr. v Jasnit Singh & Ors*** decreed vide consent decree dated 02.02.1995 passed by the Hon'ble High Court of Delhi. Therefore, the issue of inheritance cannot be challenged before this Tribunal and the jurisdiction lies with the civil courts.

15. Now we may delve upon the issue of CJ International Hotels Limited. It is contended on behalf of the applicant that the petitioner wants to have an interim stay on the transfer of shares in M/s CJ international Hotels Limited. However, the said interim relief cannot be granted in the present petition as the same is subject matter of adjudication in CP No. 36/2022 before the Hon'ble Principal Bench, NCLT Delhi. The entire edifice of the petition is based on the investments of applicant in CJIH (which is admittedly a public company) and 99.9% subsidiary of the applicant company having its asset – Hotel Le Meridien. The Petitioner has suppressed the fact that he had already sought restraint on any changes in shareholding of CJIH in any form through

transfer, transmission, issuance, encumbrance or any other dealing manner (directly or indirectly) in respect of the shares of CJI in the matter pending before Hon'ble Principal Bench, New Delhi. Owing to the shareholding held by Petitioner in applicant Company, he claims to be interested in affairs of CJI. applicant's interest is also affected due to malfunctioning and mismanagement of CJI which can be ascertained in letters dated 23.09.2017. Moreso, the attempts are being made to transfer shares of CJI illegally. It is further submitted that the Hon'ble NCLT Delhi has not granted any interim relief and has, instead, vide its order dated 02.06.2022 referred the parties to mediation before Hon'ble Mr. Justice Pradeep Nandrajog (Former Chief Justice of Rajasthan High Court) and Mr. Onkar Singh Kanwar. (Chairman, Apollo Tyres). Moreover, the Petitioner is indulging in forum shopping as he was unsuccessful in obtaining any interim order in CP No. 36 of 2022.

On the other hand, it is submitted by the petitioner that the applicant is not a party to this Petition. Moreover, no reliefs are sought with respect to the applicant Company have been sought in the CJIH Petition. By order dated 02.06.2022 - CJIH Petition was referred to mediation. Now, mediation has failed and the Closure Report has been signed by the Mediators. From this Report, it is clear that affairs of the applicant Company were never subject matter of Mediation.

It is apprehension of the petitioner is that Respondent Nos 2, 3 and 5 are seeking to induct a third party and create third party interest in applicant company by transmitting shares same as earlier Respondent Nos. 2 to 5 inducted third parties in another group company, namely Pure Drinks (Calcutta) Ltd. and interim relief has also been sought to that effect by filing

another application CA No. 78/2024 to that effect. Therefore, this apprehension is indicative of transfers of shares in the CJ International Hotels Limited in which the applicant company is having 99.9% shares. Although, the CJ International Hotels Limited is not a party in the present petition and applicant company is also not a party in CP No. 36/2022 filed before Hon'ble NCLT, Principal Bench, New Delhi. However, the reliefs claimed by the petitioner in present petition CP No. 9/Chd/Pb/2024 are in verbatim with respect to the issues contained in the matter pending before the Hon'ble NCLT, Principal Bench, New Delhi in CP No. 36/2022. In case the relief in CA 78/2024 is granted, then certainly respondent No. 2 to 5 will not be able to transfer their shares in accordance with AoA. It is pertinent to note that Hon'ble NCLT Delhi has not granted any interim relief and has, instead, vide its order dated 02.06.2022 referred the parties to mediation before Hon'ble Mr. Justice Pradeep Nandrajog (Former Chief Justice of Rajasthan High Court) and Mr. Onkar Singh Kanwar. (Chairman, Apollo Tyres).

16. In terms of the above discussion, the main petition CP No. 9/Chd/Pb/2024 is not maintainable as no ground for Oppression and Mismanagement is made out. Thus, the main CP No. 9/Chd/Pb/2024 are dismissed on ground of non-maintainability. The CA No. 70/2024 is allowed and stands disposed of accordingly.

CA 78/2024

17. The present application is filed by the petitioner i.e., Satwant Singh, against the respondents i.e., Pure Drinks Limited, and 18 other Respondents in the main petition under Rule 11 of the National Company Law Rules, 2016,

interalia, for placing on record additional facts and documents, maintaining the
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&
CP No. 9/Chd/Pb/2024

status quo with respect to the shareholding pattern of Respondent Company No.1 and no alteration to be made by issuance/transfer of shares/securities, retraining the transfer or encumbrance or creation of third party rights in respect of Respondent Company No.1's investments assets and properties, no further action be taken by the Board of Directors without the prior permission of this Tribunal.

18. It is averred by the applicant that Respondent Nos. 2 to 5 are in the advanced stages of implementing their scheme by illegally inducting, directly or indirectly, third parties within Respondent No. 1 Company in the same manner as done in relation to another group company of the Pure Drinks Group, i.e., Pure Drinks (Calcutta) Limited, in May 2023. It is submitted that, vide Order dated 01.03.2024, of this Tribunal, it was recorded that "*Ld. Counsel for the Petitioner has prayed for interim relief for stay of transferring the shares till the next date of hearing, on the other hand, it is vehemently opposed by Ld. Counsel for contesting Respondent Nos. 1 to 5.. **Ld. Senior Counsel for the Petitioner is having apprehension that the shares may be transferred by respondents before the next date of hearing.** Arguments for interim relief will be heard on the next date of hearing."*

It is submitted by the applicant that Respondent No. 1 Company has been defunct for the last 30 years. However, on 26.02.2024, a false and back-dated filing was made in the name of the Respondent No. 1 Company showing the induction of Mrs. Soniya Chadha Gurnit Singh ("**Respondent No. 16**"), who is not even a shareholder of the Respondent No. 1 Company, as its "Additional Director" on 14.02.2024 i.e., immediately after the filing of the Company Petition. Moreso, the records are being fabricated to give effect to the

schemes of Respondent Nos. 2 to 5. Furthermore, it is submitted that Mrs. Sonia Singh Chadha, the Respondent No. 16, is a Designated Partner of Shreydish Corporate Advisors LLP ("**Respondent No. 8**"), to whom Respondent No. 5 has given an assurance that shares of the Respondent No. 1 Company would be transferred. However, in January 2020, the Petitioner learned that a letter dated 23.09.2017 had been written by Respondent No. 5 (in respect of the Respondent No. 1 Company), addressing Respondent No. 8 (of whom Mrs. Soniya Singh Chadha was/is a Designated Partner) and promising to transfer the majority shareholding of the Respondent No. 1 Company. Further, in May 2023, group company, Pure Drinks (Calcutta) Limited transferred to entities related to Mr. Sandeep Raheja (i.e. Unique Estate Development Company Limited, Mr. Sandeep Raheja, Mrs. Durga Sandeep Raheja and Ms. Aditi Raheja). Mrs. Soniya Singh Chadha/Respondent No. 16, Mrs. Durga Sandeep Raheja and Ms. Aditi Raheja were also inducted as Directors of Pure Drinks (Calcutta) Limited.

It is submitted by the applicant that there is danger of alteration of share capital and falsification of records as Respondent Nos. 2 to 5 are running the Company in an illegal manner by changing the Directors and appointing Auditors.

19. The reply was filed by the Respondents, wherein it is submitted that contradictory stand have been taken by the petitioner, as on one hand he is stating it to be a family concern and in some other matters he has stated it not to be a family concern. It has been the own stand of the Petitioner in the legal proceedings that the shares of Respondent No. 1 Company have not been held throughout by members of the late S. Mohan Singh but outsiders Mr. A.P.

Henningsen and Mr. Tim Harrison Kirk (held 10% shares) have been shareholders of Respondent No. 1 Company. Further, it is submitted that the Petitioner has denied the same in the civil suits:- Suit No. 2450 of 1993 (now numbered as CS No. 59038 of 2016) titled as '*Smt. Surjit Malhan Vis. Pure Drinks Ltd. and Others*' and Suit No. 58393 of 2016 titled as '*Kaval Rasdip Singh and Anr. v. Pure Drinks Limited and Ors.*' pending before the Ld. Additional District Judge, Patiala House Courts, New Delhi and Suit No. 2311 of 1993 titled as '*Pure Drinks Ltd. and Others Vis Projects Private Investment Private Limited*' before the Hon'ble High Court of Delhi. Moreover, with regards to the shares of the other shareholders of the Respondent No. 1, there is no restriction in the transferability of the shares of the Respondent No. 1 Company in the Articles of Association ('**AOA**') and the same do not contain any pre-emptive right in favour of any shareholder upon transfer of shares by other shareholders. Further, the petitioner has no locus standi and the Petitioner has no right over the shareholding of the other shareholders. Furthermore, the present petition as well as the application under reply is directed towards the 99.9% subsidiary company of the Respondent No. 1, namely C.J. International Hotels Ltd. ('**CJIH**') and the said subsidiary's asset namely Hotel Le Meridien in New Delhi. The Petitioner is seeking restraint orders for protecting investments, assets and property of the Respondent No. 1. The Petitioner has further suppressed the material fact that Hon'ble NCLT Delhi has not granted any interim relief in C.P. No. 36 of 2022 and, vide its order dated 02.06.2022 referred the parties to mediation before Hon'ble Mr. Justice Pradeep Nandrajog (Former Chief Justice of Rajasthan High Court) and Mr. Onkar Singh Kanwar (Chairman, Apollo Tyres) which is still ongoing

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between the parties. Respondent No. 16 is the daughter of the deceased shareholder, Mrs. Kaval Rasdip Singh, and has been a shareholder of the Respondent No. 1 Company since FY 2020-2021 and had been appointed as an Additional Director of the Respondent No. 1 Company on 14.02.2024, and the Form DIR-12 was filed by the Respondent No. 1 in accordance with the law on 26.02.2024, as the board remains operational even if the untoward incident has happened. Moreover, the Respondent No. 1 has been restrained from holding its AGM vide order dated 09.05.1995 passed in Suit No. 2450/1993. The application dated 03.10.2018 filed by Respondent No. 2 seeking permission to hold the Annual General Meeting of Respondent No. 1 Company is pending adjudication in Suit No. 2450 of 1993 and the application is being opposed by the Petitioner himself and Respondent No. 6 in the proceedings. It is further averred that Respondent No. 5 has never written any letter dated 23.09.2017 to the Respondent No. 8, wherein the Respondent No. 5 has promised transfer of shareholding of the Respondent No. 1 by the existing shareholders. Therefore, the letters are forged and fabricated.

20. We have heard the learned counsels for the petitioner as well as respondents and have also perused the record carefully.

21. It is noted that issues involved in the present application have been discussed in the CA 70/2024. However, with regards to the shares of the other shareholders of the Respondent No. 1, there is no restriction on the transferability of the shares of the Respondent No. 1 Company in the Articles of Association ('AOA') and the same do not contain any pre-emptive right in favour of any shareholder upon transfer of shares by other shareholders.

Further, the petitioner has no locus standi and the Petitioner has no right over

the shareholding of the other shareholders. Moreover, the issue regarding the CJ International Hotels Limited, the matter is pending for adjudication before the Hon'ble NCLT, Principal Bench, New Delhi. Moreover, the appointments of Respondent Nos. 4 & 16 have not ratified by the Board in the AGM as the holding of said AGM was stayed vide order dated 09.05.1995 passed by Hon'ble Delhi High Court in the ***Civil Suit No. 2450 of 1993 titled 'Surjit Malhan v Pure Drinks Limited & Ors.'*** It is seen that the petitioner is not interested in the issues involved, as he himself is opposing the application dated 03.10.2018 filed by Respondent No.2 seeking to hold AGM. Rather indulging into forum shopping by filing the different suits and proceedings with the same contentions at different fora.

22. In view of, the discussion in CA No. 70/2024 and keeping in view provisions contained in AoA, no interim relief can be granted in favour of applicant/petitioner i.e. Satwant Singh, as the main petition bearing CP No. 9/Chd/Pb/2024 stands dismissed. Therefore, the present application, CA 78/2024 renders infructuous and stands disposed of accordingly.

CA 94/2024

23. The present application is filed by Respondent No.1 in the main petition i.e., Pure Drinks Limited, against the applicant in the main petition- Satwant Singh, and 18 Other Respondents in the main petition under Section 340 of the Code of Criminal Procedure, 1973, seeking directions for initiation of proceedings against Petitioner for having committed perjury in terms of Sections 191 and 193 of the Indian Penal Code, 1860.

24. In view of the order passed in CA 70/2024, vide separate order of even date, for dismissal of the main petition, the CA 94/2024 renders infructuous and stands disposed of accordingly.

CA 110/2024

25. The present application is filed by Sonia Singh Chaddha i.e. Respondent No. 16 in the main petition against the petitioner i.e. Satwant Singh under Rule 11 of National Company Law Tribunal Rules, 2016 for convicting the Petitioner for the offences committed under Sections 191 and 192 read with Section 193 and 199 of the Indian Penal Code, 1860; directing the Registrar of the National Company Law Tribunal, Chandigarh or some other Officer of this Tribunal to make a complaint in writing under Section 340 read with Section 195(2) of the Code of Criminal Procedure, 1973 against the Petitioner for committing the offence of giving and fabricating false evidence under Sections 191 and 192 read with Section 193 of the Indian Penal Code, 1860, by making false statements in his reply to C.A. 70 of 2024 and to send the complaint to the competent Court having jurisdiction for taking cognisance of the said offences and dealing with the Petitioner, to arrest and send the Petitioner in custody to such competent Court or take sufficient security for the appearance of the Petitioner before such competent Court, to allow and authorise the Applicant to make a complaint in writing under Section 340 read with Section 195(2) of the CRPC against the Petitioner, dismissing/ rejecting the Company Petition filed by the Petitioner *in limine* with compensatory costs, hearing of the captioned Company Petition be adjourned *sine die*.

26. In view of the order passed in CA 70/2024, vide separate order of even date, the CA 110/2024 renders infructuous and stands disposed of accordingly.

Sd/-
(L.N. Gupta)
Member (Technical)

Sd/-
(Harnam Singh Thakur)
Member (Judicial)

July 03 , 2024
TB