

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 05
181/241-242/PB/2020

IN THE MATTER OF:

Sanjeev Kumar Agarwal	...	Applicant/Petitioner
Vs		
Tara Chand Jalan W/o Amar Chand	...	Respondent

Order under Section 241-242.

Order delivered on 24.12.2020

CORAM:

SH. B.S.V. PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant	: Mr. Percival Billimoria, Mr. Vikram Singh, Mr. Gandharv Anand, Advs.
For the Respondent	: Mr. Gursat Singh, Advocate for R1 to R6.

ORDER

It is a Company Petition filed u/s 241-242 by a Shareholder namely Mr. Sanjeev Kumar Agarwal, having 27.08% shareholding and a seat on the Board of Directors, against R1, R3, R4 & R5, shareholders and continuing in the management of R6 Company, R2 – director of R6 Company, and R6 is the company whose affairs have been impugned before this Bench and also against R7 to R10, who are third parties purchased part of the assets of R6 Company. The petitioner submits that R6 was incorporated to acquire a

property situated at 1169-A/II, Kucha Mahajani Chandni Chowk, Delhi-II0006, out of which, around 32% property was sold on 27.08.2018, remaining 68% property (subject property) was lying with the company until before wrongful and surreptitious sales taken place in this year. The petitioner has made Sub Registrar office, Kashmiri Gate, Delhi as a party to the proceedings so that the Sub-Registrar (R10) would not proceed with registration of any further sale in relation to the assets of R6 Company.

The petitioner submits that answering respondents fraudulently and surreptitiously, sold part of Subject Property situated at ground floor admeasuring 450 square feet to R7 & R8 through Sale Deed dated 25.02.2020 and sold part of the Subject Property situated at Ground floor, consisting of Shop bearing private no. 2 having an area admeasuring 26.10 Square Meters/280.93 Square Feet (approx.) to R9 through a Sale Deed dated 24.09.2020 and also sold part of the Subject Property situated at First floor, consisting of two Shops bearing private no. 1 & 2 having area admeasuring 67.91 Square Meters/730.97 Square Feet (approx.) to R10 through a Sale Deed dated 24.09.2020.

Looking at the sales already happened and the Respondents selling those assets without notice to the petitioner having more than 1/4th shareholding in R6 Company, the petitioner is under the apprehension that the answering Respondents in the management are likely to sell the residual assets of R6 Company. The petitioner having of late come to know earlier sales; he has filed this case impugning the acts in relation to the affairs of R6 Company as prejudicial to the interest of the petitioner u/s 241/242 of the Companies Act 2013.

As to these sale transactions, the Respondent Counsel has not disputed the sale of the assets mentioned in the Company Petition, when this Bench has asked him as to whether or not notice has been issued to the Petitioner about the proposal for sale and sale of the assets of R6, he is unable to answer and he says he has to take instructions from his client.

As per the record filed by the Petitioner, it appears that R6 Company, without issuing notice to the Petitioner, sold parts of R6 property to the purchasers arrayed as R7-10. By looking at the location of the asset of R6 Company, it appears that the assets are located at the prime commercial area of Delhi i.e., Chandni Chowk.

The sale value shown in the Sale Deeds executed by R6 in favor of the buyers, according to the petitioner, is far less than the market value mentioned by the Petitioner.

It is a categorical allegation that the Respondents i.e., R1 to R5 sold these assets without bringing it to the notice of the Petitioner is oppressive and prejudicial to the interest of the Petitioner for two reasons:

- a)** For selling the asset without putting it to the notice of the Petitioner;
- b)** For selling the asset at under value.

As to first allegation, for there being no specific denial, we are of the view that the Petitioner established prima facie case to issue interim directions against the Respondents.

In view of the reasons afore mentioned above, we hereby restrain that R1 to R5 shall not deal with the assets of R6 Company, and R7 to R10 shall not further create any third party rights over the assets allegedly sold by R6 to the purchasers until further orders. Further, R1 to R5 shall maintain status quo with regard to the affairs of R6 Company until further orders.

The Respondents are hereby directed to file their replies, if any, within four weeks hereof and rejoinder, if any, within four weeks thereof.

The Petitioner is at liberty to serve this copy of the order to R11 enabling him to know that restraint order passed with regard to the sale of the assets impugned in this Company Petition.

Order dasti

List the matter for hearing on **11.03.2021**.

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**(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT**

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**(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)**

24.12.2020
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