

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CAPP-20-2015 (O&M)

Date of decision:- 31.03.2015

Ganges India Hotels & Development Pvt. Ltd. and others

...Appellants

Versus

Sanjeev Malik and others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. Anand Chhiber, Senior Advocate,
with Mr. Ravish Bansal, Advocate,
for the appellants.

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S.J. VAZIFDAR, A.C.J. (ORAL)

This is an appeal against an order dated 23.09.2014 and an order dated 21.01.2015 passed by the learned Company Judge. By the order dated 21.01.2015, the learned Judge dismissed the appellants' application for review of the order dated 23.09.2014.

2. The order dated 23.09.2014 reads as under:-

“Learned counsel for respondent No. 2 states that he has no objection regarding the issue of maintainability to the petition. This Court had asked the petitioner on a previous date to show sufficient law about the maintainability of the petition and in this regard reliance has been placed upon 1972(42) Company Cases, 63 wherein it has been held that power of a Court under Section 237(a)(ii) is unfettered and it can always arrive at a conclusion upon the material placed before it to direct investigation by the Central Government.

Let the complete reply to the petition be filed before the next date of hearing i.e. 09.02.2014.”

3. Mr. Chhiber, learned senior counsel appearing on behalf of the respondent (appellants herein) states that the concession on a question of law

was wrongly made. If the concession was only on a question of law, it cannot be binding on the appellants at any further stage of the proceedings before the learned Company Judge. In that event, it will be open to the appellants to raise the contention regarding the maintainability of the petition before the learned Company Judge provided that the contention is based purely on a question of law. The impugned order, therefore, warrants no further interference.

4. In view of the above clarification, the appellants' grievances stand redressed.

5. Mr. Chhiber submitted that the issue of maintainability ought to be tried as a preliminary issue. It is always open to the appellants to make an application for the same before the learned Company Judge.

6. The appeal is accordingly disposed of.

7. The time to deposit the amount of costs is extended upto and including 30.04.2015.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(G.S. SANDHAWALIA)
JUDGE

31.03.2015

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