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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CO.APP. 10/2015 and C.M.No.10057/2015

MADHAVI SYLVIA ..... Appellant

Through: Mr.Aman Vachher, Mr.Ashutosh Dubey, Mr.Abhishek Chauhan and Mr.Sagar Mehra, Advocates.

versus

JVG FINANCE LTD & ORS ..... Respondents

Through: Mr.Rajiv Bahl, Advocate for O.L.

AND

\+ CO.APP. 11/2015 and C.M.Nos.10060-10061/2015

C KRUPESHWARA ..... Appellant

Through: Mr.Aman Vachher, Mr.Ashutosh Dubey, Mr.Abhishek Chauhan and Mr.Sagar Mehra, Advocates.

versus

JVG FINANCE LTD & ORS ..... Respondents

Through: Mr.Rajiv Bahl, Advocate for O.L.

AND

\+ CO.APP. 12/2015 and C.M.No.10064/2015

G HARINATHA REDDY ..... Appellant

Through: Mr.Aman Vachher, Mr.Ashutosh Dubey, Mr.Abhishek Chauhan and Mr.Sagar Mehra, Advocates.

versus

JVG FINANCE LTD & ORS ..... Respondents

Through: Mr.Rajiv Bahl, Advocate for O.L.

AND

+ CO.APP. 13/2015 and C.M.No.10067/2015
R SANDHYA

..... Appellant

Through: Mr.Aman Vachher, Mr.Ashutosh Dubey, Mr.Abhishek Chauhan and Mr.Sagar Mehra, Advocates.

versus

JVG FINANCE LTD & ORS

..... Respondents

Through: Mr.Rajiv Bahl, Advocate for O.L.

AND

+ CO.APP. 14/2015 and C.M.No.10070/2015
B VENKAT VAMSHIDHAR

..... Appellant

Through: Mr.Aman Vachher, Mr.Ashutosh Dubey, Mr.Abhishek Chauhan and Mr.Sagar Mehra, Advocates.

versus

JVG FINANCE LTD & ORS

..... Respondents

Through: Mr.Rajiv Bahl, Advocate for O.L.

AND

+ CO.APP. 15/2015 and C.M.No.10073/2015
SUKHLEEN K SALUJA

..... Appellant

Through: Mr.Aman Vachher, Mr.Ashutosh Dubey, Mr.Abhishek Chauhan and Mr.Sagar Mehra, Advocates.

versus

JVG FINANCE LTD & ORS

..... Respondents

Through: Mr.Rajiv Bahl, Advocate for O.L.

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AND

\+ CO.APP. 16/2015 and C.M.No.10076/2015

KOKALA RAMESHWARI

..... Appellant

Through: Mr.Aman Vachher, Mr.Ashutosh Dubey, Mr.Abhishek Chauhan and Mr.Sagar Mehra, Advocates.

versus

JVG FINANCE LTD & ORS

..... Respondents

Through: Mr.Rajiv Bahl, Advocate for O.L.

AND

\+ CO.APP. 17/2015 and C.M.No.10079/2015

SHIVESH GOEL

..... Appellant

Through: Mr.Aman Vachher, Mr.Ashutosh Dubey, Mr.Abhishek Chauhan and Mr.Sagar Mehra, Advocates.

versus

JVG FINANCE LTD & ORS

..... Respondents

Through: Mr.Rajiv Bahl, Advocate for O.L.

AND

\+ CO.APP. 18/2015 and C.M.No.10082/2015

M SURESH KUMAR

..... Appellant

Through: Mr.Aman Vachher, Mr.Ashutosh Dubey, Mr.Abhishek Chauhan and Mr.Sagar Mehra, Advocates.

versus

JVG FINANCE LTD & ORS

..... Respondents

Through: Mr.Rajiv Bahl, Advocate for O.L.

AND

\+ CO.APP. 19/2015 and C.M.No.10085/2015
P.SAILA SUTHA

..... Appellant

Through: Mr.Aman Vachher, Mr.Ashutosh Dubey, Mr.Abhishek Chauhan and Mr.Sagar Mehra, Advocates.

versus

JVG FINANCE LTD & ORS

..... Respondents

Through: Mr.Rajiv Bahl, Advocate for O.L.

CORAM:
HON'BLE MS. JUSTICE GITA MITTAL
HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

% **06.10.2015**

1. The appellants before us have assailed the following orders:

S.No.	Co. App. No.	Date of Order
(i)	Co. App. 10/2015	7.3.2012 in CA 476/2012 in CP 265/98 23.8.2011 in CA 1633/11 in CP 265/98
(ii)	Co. App. 11/2015	23.8.2011 in CA 1633/11 in CP 265/98 23.11.2011 in CA 2307/11 in CP 265/98
(iii)	Co. App. 12/2015	9.9.2011 in CA 1679/11 in CP 265/98 23.8.2011 in CA 1633/11 in CP 265/98
(iv)	Co. App. 13/2015	8.12.2011 in CA 2359/11 in CP 265/98 23.8.2011 in CA 1633/11 in CP 265/98
(v)	Co. App. 14/2015	5.3.2012 in CA 462/12 in CP 265/98 23.8.2011 in CA 1633/11 in CP 265/98
(vi)	Co. App. 15/2015	22.11.2011 in CA 2307/11 in CP 265/98 23.8.2011 in CA 1633/11 in CP 265/98

(vii)	Co. App. 16/2015	7.3.2012 in CA 480/12 in CP 265/98 23.8.2011 in CA 1633/11 in CP 265/98
(viii)	Co. App. 17/2015	22.11.2011 in CA 2292/11 in CP 265/98 23.8.2011 in CA 1633/11 in CP 265/98
(ix)	Co. App. 18/2015	5.3.2012 in CA 454/12 in CP 265/98 23.8.2011 in CA 1633/11 in CP 265/98
(x)	Co. App. 19/2015	9.2.2012 in CA 2295/11 in CP 265/98 23.8.2011 in CA 1633/11 in CP 265/98

2. The learned Single Judge has dismissed the applications as aforesaid of the appellants under Section 536(2) of the Companies Act praying for acceptance of the sale deeds of the plots of the respondent-company to them.

3. Learned counsel for both the parties submit that identical challenges by way of Co.App.Nos.44-49/2014 (at page 44 of the paper book) have been allowed by a Division Bench of this Court vide order dated 12th September, 2014. The appellants before us claim that they have validly paid the sale considerations towards the plots and that the impugned orders are liable to be set aside for the same reasons as have been noted in the order dated 12th September, 2014, which is extracted hereunder:

> *"10. The appellants thereafter approached the learned Company Judge by filing the application under Section 536(2) of the Companies Act seeking validation of the approval in their favour. The appellants have urged that they were the bonafide purchasers without knowledge of the passing of the order dated 18th of October, 1997 of the Reserved Bank of India or the order dated 5th of June, 1998 of the learned Company Judge appointing the provisional liquidator. They also claimed that they have paid entire 7 consideration of the plot in question in terms of the agreement to sell which was unauthorisedly entered into by the respondent company and hence the present case was a fit case for passing of the order under Section 536(2) of the Companies Act.*
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> *11. We are informed that apart from the appellants there were several other persons who were identically situated who had been also directed*

by Mr. Ganpati to part with the remaining part of the sale consideration for the lands. Their claims were also rejected by the One Man Committee and they had also approached the learned Company Judge by way of filing an application under Section 536(2) of the Companies Act. Some of these applications were rejected by the learned Company Judge by order passed on 23rd August, 2011 and 9th September, 2011 compelling these persons to file the appeals before the Division Bench of this court including the Company Appeal Nos.15/2012; 16/2012; 17/2012; 18/2012; 19/2012; 21/2012; 22/2012; 36/2012; 37/2012; 38/2012; 39/2012; 40/2012; 41/2012; 46/2012; 47/2012; 48/2012; 49/2012; 50/2012; 53/2012; 54/2012; 55/2012; 56/2012; 103-112/2012. These appeals were considered by the Division Bench and by the order dated 6th of September, 2012, the orders of the learned Company Judge rejecting their applications under Section 536(2) of the Companies Act came to be set aside.

12. Mr. Ashutosh Dubey, learned counsel for the appellant has also placed before us a subsequent order dated 17th December, 2012 passed on Co.App.Nos.103, 104, 105, 106, 107, 108, 109, 110, 111, 112 all of 2012 raising an identical challenge wherein also similar appeals of the appellants were also accepted.

13. Mr. Rajiv Bahl, learned counsel has pointed out certain new facts which were placed before the Appellate Bench. It was pointed out by Mr. Rajiv Bahl that the Income Tax Department had passed an order of attachment dated 14th September, 1998, soon after the appointment of the official liquidator but before execution of the sale deed. Mr. Bahl, learned counsel has also pointed out to this court that the learned Company Judge had referred the matter to the Serious Fraud Investigation Office, report whereof was awaited which shall have a serious bearing on the outcome of the application.

14. There can be no dispute with regard to the fact that receipt of 9 the part sale consideration by Colonel Ganapati, was without any authority of law. The sale deed was executed by him after passing of the order of the Reserve Bank of India as well as after appointment of the provisional liquidator. The One Man Committee had however accepted the validity of the agreements to sell as well as receipt of the part payment by the company prior to the filing of the winding up petition. In this background, even if the receipt of the consideration by Colonel Ganapati and the execution of the sale deed was invalid, the learned

Company Judge would be required to examine the question as to whether the appellants were the bonafide purchaser of the property in question or not.

15. It is submitted by Mr. Dubey, learned counsel for the appellant, that without prejudice to the rights and contentions that they have validly paid sale consideration, in order to obviate any further delay and for reasons of expediency, the appellants are willing to make payment of the balance consideration afresh to the account of the company with the official liquidator.

16. This offer also deserves to be considered before the learned 10 Company Judge. We are informed that the cases of the appellants which came to be decided on 6th of September, 2012 and 17th of December, 2012 are still pending consideration before the learned Single Judge.

17. The report of the Serious Fraud Investigation Office has been placed before the learned Single Judge but has yet to be considered by the court. The Income Tax Authority as yet to submit their report on consideration of the matter. Interests of justice merit that the claims of these appellants be also placed with the claims of the other persons in the previously decided appeals who are identically placed as the present appellants deserve to be considered afresh by the learned Company Judge in the light of the observations made by us herebefore.

18. Undoubtedly, there is delay in not only filing the appeal but also in refiling. The appellant has given sufficient explanation seeking condonation of the delay of the applications filed in this regard. For the view we have taken based on the orders passed on 6 th of September, 2012 and 17th of December, 2012, we are inclined to accept the explanation tendered by the appellants, firstly, in 11 filing the appeals and thereafter, in refiling the same as well.

19. The view has been taken in the peculiar facts and circumstances which have been set out in detail above."

4. So far as the similarity of the claims made by the present appellants as was before this Court on 12th September, 2014 is concerned, it is not disputed on behalf of the Official Liquidator. The appellants in these

appeals are, therefore, also entitled to similar treatment as the appellants in the Co.App.Nos.44-49/2014.

5. In view of the above, we direct as follows:

(i) Delay in filing the appeal as well as re-filing these appeals is hereby condoned.

(ii) The impugned orders dated 23rd August, 2011, 9th September, 2011 and 7th March, 2012 are hereby set aside and quashed.

(iii) The appellants shall appear before the learned Single Judge on 16th October, 2015.

6. The appeals as well as the applications are allowed and disposed of in the above terms.

GITA MITTAL, J

I.S.MEHTA, J

OCTOBER 06, 2015
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