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

+ W.P.(C).11151/2015 & CM.APPL Nos.28958-28959/2015

% *Judgment dated 30th November, 2015*

M/S AGARPARA COMPANY LTD. Petitioner

Through : Mr. Amit S. Chadha, Senior Advocate
with Mr. Atanu Mukherjee, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through : Mr. Ajay Diggpaul, CGSC for
UOI/respondent no.1.
Ms. Indrani Mukherjee, Advocate for
respondent no.4.
Mr.A.S. Chandhiok, Senior Advocate
with Ms. Purti Marwaha and Mr. C.S.
Chauhan, Advocates for respondent
no.10.

+ W.P.(C).11152/2015 & CM.APPL Nos.28960-28961/2015

MAHENDRA KUMAR SHARMA Petitioner

Through : Mr. Sachin Datta, Senior Advocate with
Mr.Arvind Kumar and Mr. Shakil
Ahmed, Advocates.

versus

UNION OF INDIA & ORS. Respondents

Through : Mr. Ajay Diggpaul, CGSC for
UOI/respondent no.1.
Mr. Amit S. Chadha, Senior Advocate
with Mr. Atanu Mukherjee, Advocate for
respondent no.3 M/s Agarpara Jute Mills
Ltd.

+ W.P.(C).11153/2015 & CM.APPL Nos.28962-28963/2015

RABINDRA KUMAR WALIA Petitioner

Through : Mr. Sanjeev Shabarwal, Senior Advocate
with Mr. Har Hari Singla, Advocates

versus

UNION OF INDIA & ORS. Respondents

Through : Mr. Ajay Digpaul, CGSC for
UOI/respondent no.1.
Mr. Amit S. Chadha, Senior Advocate
with Mr. Atanu Mukherjee, Advocate for
respondent no.6.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. These matters have been listed upon being mentioned before DB-II.
2. The petitioners are aggrieved by the order passed by the Appellate Authority for Industrial and Financial Reconstruction (AAIFR) dated 27.11.2015. The petitioners are primarily aggrieved by the directions passed by the (AAIFR) for hearing the applications and appeals on a day to day basis.
3. Learned Senior Counsels for the petitioners submit that this Court had passed an order on 28.08.2015 with the consent of the parties requesting the (AAIFR) to hear the applications on 16.09.2015. Leave was also granted to the parties to mention the matters before the (AAIFR) to take up the applications on a date even prior to 16.09.2015. Yet the counsel submits that the final hearing in the appeals are likely to take considerable time and in case the applications are not heard prior to hearing of the appeals, serious prejudice would be caused to their rights, besides the fact that parties had consented to the order dated 28.08.2015.

4. Counsel for the respondents company, however, submits that the present writ petitions are misconceived as the applicants and the petitioners, in collusion with each other, as would be clear by the reading of the order dated 27.11.2015 are prolonging the hearing of the matter and not allowing the (AAIFR) to conclude the hearing either in the applications or in the appeals. It is contended that the object of the petitioners is to get a hearing in the applications just to ensure that the appeals are not heard.
5. We have heard the learned counsel for the parties. On 28.08.2015, this Court had passed the following agreed order:

“Mr. A. S. Chandiok, Sr. Adv. appearing for the petitioner submits that the applications filed on behalf of Govind Sarda Group and the petitioner (objected to by Mr. Rajeev Mehra, Sr. Adv., Mr. Sandeep Sethi, Sr. Adv. and Mr. Rajiv Nayyar, Sr. Adv.) inter alia for a direction for inspection of the assets of Respondent No. 4 Company, preparation of an inventory of the land of the Company are pending, however no orders have been passed. We are informed that the next date fixed before the Tribunal is 16.09.2015. All parties agree that they would cooperate with the Tribunal in disposing of the applications which are pending, including the application for inspection of the assets of Respondent No. 4 Company and other reliefs which have been prayed. We have no hesitation to say that every endeavour would be made by AAIFR to dispose of the applications on 16.09.2015. We also leave it open for any of the parties to mention before the AAIFR to take up the applications on a date even prior to 16.09.2015 subject of course to the convenience of the Tribunal. Since parties have raised an objection with regard to the *locus standi* of the present petitioner, we make it clear that we have not expressed any opinion on this aspect. With these directions, the present writ petition is disposed of. (Emphasis added)

CM APPL. 17424/2015 (Stay)

In view of the order passed in the writ petition, the present application is rendered infructuous.

Copy of the order be given dasti to the parties under the signatures of the Court Master, as prayed.”

6. The (AAIFR) in the order dated 27.11.2015 has referred to a subsequent order passed by this Court. However, in our view, the (AAIFR) should have been guided by the order dated 28.08.2015 passed by the Court and not by the subsequent order which is in continuation of the order dated 28.08.2015. We Accordingly dispose of all the writ petitions while addressing the apprehensions of the parties and pass the following order, which shall be strictly followed:
- (i) The applications would continue to be taken up on a day to day basis in terms of the agreed order dated 28.08.2015. The applications would be taken up for hearing at first on four days, *i.e.* 1st, 2nd, 3rd and 4th December, 2015.
 - (ii) All parties agree that if for any reason, the Senior Counsel are not available, the retained counsel would conduct the hearing and conclude the hearing.
 - (iii) Two days would be granted to the petitioners and two days would be granted to the respondents.
 - (iv) Thereafter the (AAIFR) would pass orders on the applications to address the apprehensions of the respondents.
 - (v) After the hearing of the applications, the appeals will be heard on day to day basis.
 - (vi) Since the petitioners have already been given considerable time for hearing the appeals, two days will be granted to the petitioners to conclude the hearing and thereafter four days will be granted to the respondents.

(vii) Mr. Chandhiok submits that in the appeals, notice has not been issued to all the parties. This aspect will be considered by the (AAIFR) at the time of hearing of the appeals.

7. The writ petitions and the applications are disposed of in above terms.
8. Copy of the order be given dasti to the parties under the signature of the Court Master.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

NOVEMBER 30, 2015

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