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

+ **CO.A(SB) 35/2014**

MR. VIKRAM BAKSHI & ORS. Appellants
Through None.

versus

MRS. SONIA KHOSLA & ORS. Respondents
Through Mr.Deepak Khosla with Ms.Himani,
Advs.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **22.04.2019**

CO.APPLN.392/2019 (Exemption)

Allowed, subject to all just exceptions.

CO.APPL. 389/2019

1. By this application, respondent No.2 seeks recall of interim order dated 24.07.2014 and the consequential order dated 03.10.2016 *inter-alia* on the ground that fraud was played upon this Hon'ble Court.

2. The appellants had filed the subject appeal impugning order dated 03.06.2014 of the Company Law Board whereby directions were issued *inter-alia* to the appellants to be personally present in Court.

3. By interim order dated 24.07.2014, while issuing notice in the

appeal, this Court had stayed the direction, whereby appellants were directed to be personally present in Court, however, this court had directed the appellants to comply with the other directions i.e. for swearing and filing an affidavit and also the minutes of the board meeting dated 27.08.2007.

4. Subsequently, by order dated 03.10.2016 the present appeal was disposed of in the following terms:-

“In view of the foregoing, without commenting on the merits of the case, in view of the fact that the proceedings before the National Company Law Tribunal in Co. Pet. No. 114 of 2007 have been inordinately delayed and leaving the legal question urged on behalf of the appellants as to whether the National Company Law Tribunal is vested with the power to issue summons pursuant to an oral prayer made in that behalf, open; the present appeal is allowed to the limited extent that the direction issued in paragraph 2 of the impugned order dated 03.06.2014 is set aside and quashed.

However, there is no gainsaying that, notwithstanding the above, the National Company Law Tribunal may proceed against the appellants in accordance with law, particularly if there was/is an application seeking summoning of the appellants, pending before the it.”

5. Respondent No.2 who appears in person submits that appellants have misrepresented before the National Company Law Tribunal (successor of the Company Law Board) and have contended that the interim order dated 24.07.2014 is still in force. He submits that order dated 03.10.2016 while setting aside direction in paragraph 2 in order

dated 03.06.2014 directed the National Company Law Tribunal to proceed in accordance with law if there was/is an application seeking summoning of the appellants pending before it.

6. Respondent No.2 submits that on the said date an application seeking summoning of the appellants was pending before the National Company Law Tribunal, however, the National Company Law Tribunal declined to proceed with the same as the appellants had inter-alia on 13.12.2016 made a representation to the National Company Law Tribunal that the interim order dated 24.07.2014 was still in force.

7. Mr. Khosla further submits that the Supreme Court in Special Leave Petition (Criminal) No.6873/2010 titled Vikram Bakshi & Ors vs Sonia Khosla & Ors had directed the Company Law Board by judgment dated 08.05.2014 to expeditiously dispose of the company petition in accordance with law.

8. Consequently, respondent No.2 has filed the subject application seeking recall of order dated 24.07.2014 and all consequential orders including order dated 03.10.2016.

9. In my view subject application is misplaced in as much as order dated 24.07.2014 was an interim order in the subject appeal, staying operation of order dated 03.06.2014 to a limited extent contained in direction 2.

10. By a subsequent order dated 03.10.2016, direction 2 contained

in order dated 03.06.2014 of the Company Law Board has been set aside and quashed. Consequently, the interim order dated 24.07.2014 interdicting order dated 03.06.2014 has merged with the final order dated 03.10.2016.

11. Final order dated 03.10.2016 set aside direction No.2 of order dated 03.06.2014 of the Company Law Board and directed the National Company Law Tribunal to proceed in accordance with law, if there was/is an application seeking summoning of the appellants pending before it.

12. In view of the above, there is no cause to recall order dated 24.07.2014, in as much as the said order was an interim order and already stands merged with the final order dated 03.10.2016.

13. I find no merit in the application, the application is accordingly dismissed.

CO.APPL. 390/2019 & 391/2019

Since the application seeking recall of order dated 24.07.2014 has been dismissed, I find no ground to condone the delay in filing the application for recall.

The applications are accordingly dismissed.

SANJEEV SACHDEVA, J

APRIL 22, 2019
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