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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 1915/2015, IA No.13393/2015 (u/O 39 R-1&2 CPC), IA No.19619/2015 (u/O 11 R-12 CPC), IA No.19620/2015 (u/O 11 R-12&14 CPC), IA No.23922/2015 (of D-1&2 u/O 7 R-11 CPC) and IA No.7360/2016 (of D-1&2 u/S 151 CPC).

KULDEEP KAUL & ORS Plaintiffs

Through: Mr. A.S. Chandhiok, Sr. Adv. with
Mr. N.P.S. Chawla, Mr. Sujoy Datta,
Mr. Anukrit Gupta, Ms. Arveena
Sharma and Ms. Sweta Kakkad,
Advs.

versus

NAND LAL BHATIA & ORS Defendants

Through: Mr. Siddharth Yadav, Ms. Vijeta
Mukherjee and Ms. Tanushree Ghosh,
Advs. for D-1&2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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29.07.2016

IA No.9000/2016 (of the defendants no.1&2 for early hearing of IA No.7360/2016).

1. Allowed.
2. IA No.7360/2016 is taken up for hearing today itself.

IA No.7360/2016 (of the defendants no.1&2 u/S 151 CPC).

3. The counsel for the defendants no.1&2 as well as the senior counsel for the four plaintiffs have been heard.
4. The defendants no.3,4,&5 State Bank of India, Noor Bank and Bharat Electronics Limited are stated to be non contesting parties with no relief claimed against them.

5. Vide *ex parte ad interim* order dated 8th July, 2013 in this suit, the defendant no.5 Bharat Electronics Limited was *inter alia* restrained from making payment of the amounts due from it to the plaintiff no.4 (in the amended memo of parties dated 8th July, 2015) HBE Aviosec FZE, United Arab Emirates (UAE).

6. There are *inter se* dispute between the management/shareholder of the plaintiff no.4 HBE Aviosec FZE, with the plaintiffs no.1&2 namely Mr. Kuldeep Kaul and Ms. Romella Kaul representing one group and the defendants no.1&2 Mr. Nand Lal Bhatia and Ms. Rukmani Bhatia representing the other group.

7. There are proceedings before the Company Law Board/ National Company Law Tribunal (NCLT) also with respect to the plaintiff no.4 HBE Aviosec FZE and the Company Law Board/NCLT has vide a consent order dated 16th May, 2016 ordered remittance of the amounts owed by the defendant no.5 Bharat Electronics Limited to the plaintiff no.4 HBE Aviosec FZE and for disbursement of the said amount. The said order has been modified slightly vide subsequent order dated 24th May, 2016.

8. The counsel for the defendants no.1&2 contends that though as per the aforesaid orders of the Company Law Board/NCLT a joint application was to be filed in this suit also for implementation thereof but has not been filed and accordingly seeks directions.

9. The senior counsel for the plaintiffs has no objection, save for clarifying that at the time of orders passed by the Company Law Board/ NCLT the defendant no.5 Bharat Electronics Ltd. was entitled to withhold 10% of the amount by way of security but which amount has also now

become due and thus the amount now to be remitted by the defendant no.5 Bharat Electronics Ltd. is not as mentioned in the orders of the Company Law Board/NCLT but is GBP 10,84,236.67.

10. The counsel for the defendants no.1&2 states that he has no instructions on the said aspect.

11. The counsel for the defendants no.1&2 cannot possibly have any objection to more amount being paid than indicated in the orders of the Company Law Board/NCLT.

12. The senior counsel for the plaintiffs states that the amount so released by the defendant no.5 Bharat Electronics Limited and received in the State Bank of India, Dubai in the account of the plaintiff no.4 HBE Aviosec FZE shall be dealt with/disbursed in accordance with the orders of the Company Law Board/NCLT.

13. The senior counsel for the plaintiffs draws attention to IA No.19619/2015 and IA No.19620/2015 and contends that before the disposal of the suit, directions as claimed therein for disclosure of the details of the transactions in account bearing no.00110655200040 opened in the name of the plaintiff no.4 (as per the amended memo of parties) HBE Aviosec FZE with the defendant no.4 Noor Bank, UAE, are to be issued.

14. The counsel for the defendants no.1&2 states that in terms of the directions issued by the Company Law board/NCLT from time to time, all the particulars have already been furnished to the Chartered Accountant appointed and any direction for furnishing of the said particulars now may jeopardise the settlement.

15. I am of the view that since *per se* there is no confidentiality claimed

or opposition to furnishing the particulars sought by the plaintiffs and since according to the defendants no.1&2 the said particulars have already been submitted to the Chartered Accountant appointed and the plaintiffs are privy to that, the said issue should not allow the suit to remain pending before this Court.

16. Accordingly, the suit is disposed of with the following directions:-

- (i) The *ex parte ad interim* order dated 8th July, 2013 is modified by directing that the entire money due as of today from the defendant no.5 Bharat Electronics Limited to the plaintiff no.4 HBE Avioseco FZE and which according to the plaintiffs is GBP 10,84,236.67 be released by the defendant no.5 Bharat Electronics Limited in terms of the orders dated 16th May, 2016 and 24th May, 2016 of the Company Law Board/NCLT.
- (ii) The defendants no.1&2 are directed to within two weeks handover to the counsel for the plaintiffs the entire information sought in IA No.19619/2015 and IA No.19620/2015.

17. The senior counsel for the plaintiffs states that after receipt of information as aforesaid the plaintiffs shall be entitled to move the Company Law Board/NCLT for appropriate orders in terms of prayer (d) in the suit.

18. It is so ordered.

19. The parties are left to bear their own costs.

20. Decree sheet be prepared.

21. The date of 16th September, 2016 is cancelled.

RAJIV SAHAI ENDLAW, J

JULY 29, 2016/‘pp’..

CS(OS) 1915/2015

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