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

+ CM(M) No.1075/2017 & CM No.35068/2017 (for stay).

CHAANDAN MUNJAL Petitioner

Through: Ms. Aakanksha Nehra and Mr.
Naman Tandon, Advs.

Versus

DR SURAJ MUNJAL & ORS

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **26.09.2017**

CM No.35069/2017 (for exemption).

1. Allowed, subject to just exceptions.
2. The application stands disposed of.

CM(M) 1075/2017 & CM No.35068/2017 (for stay).

3. This petition under Article 227 of the Constitution of India seeks interim reliefs as sought by the petitioner before the New Delhi Bench-III of National Company Law Tribunal (NCLT) in Company Petition (ND) No.227/2017 and / or seeks a direction to the New Delhi Bench-III of the NCLT to hear Company Petition (ND) No.227/2017 and to pass directions upon considering the prayers for interim reliefs sought by the petitioner in the said Company Petition.

4. It is the contention of the counsel for the petitioner that (i) the petitioner, on 29th August, 2017, filed the petition aforesaid i.e. Company Petition (ND) No.227/2017 under Sections 241 and 242 of the Companies Act, 2013 before the NCLT; (ii) the said petition was listed for hearing on 4th September, 2017 when the petitioner was directed to file an affidavit of

service of advance copy of the petition on the respondents along with tracking report and the Bench Officer directed to ascertain whether any Caveat had been filed in the matter and the matter was adjourned to 6th September, 2017; (iii) in the cause list of 6th September, 2017 the said Company Petition was shown to have been re-notified on 19th September, 2017; (iv) the petitioner mentioned the matter before Judicial Member of New Delhi Bench-III, NCLT and was advised to file an application for early hearing; (v) though the petitioner on 7th September, 2017 went to file an application for urgent hearing but was informed by the Registry that the same would be listed only in the week thereafter and since the matter was coming up on 19th September, 2017, the petitioner did not file the said application; (vi) that on 19th September, 2017, the Chairman was not sitting and the Judicial Member was presiding over the Principal Bench as well and it is for this reason that the matter was communicated to be taken up at 1400 hours; and, (vii) that when the petitioner and counsel went at 1400 hours, they were informed that status had been published of the matter having been adjourned to 12th October, 2017.

5. The counsel for the petitioner further states that she, on 19th September, 2017 itself also filed an application for urgent hearing but which has also not been listed as yet.

6. The grievance of the petitioner is that thereby the application of the petitioner for interim reliefs has not been heard.

7. I have enquired from the counsel for the petitioner, whether not a remedy of appeal to the National Company Law Appellate Tribunal (NCLAT) is available.

8. The counsel for the petitioner has drawn attention to Section 421 of the Act which provides for an appeal and has contended that since there is no order of NCLT till now, the petitioner is unable to invoke the appellate remedy as well.

9. In the aforesaid circumstances, without going into the aspect of maintainability of petition under Article 227 of the Constitution of India with respect to orders of NCLT, this petition is disposed of with a request to the Registrar, NCLT to list the aforesaid Company Petition for hearing before the Judicial Member of the New Delhi Bench-III, NCLT on 4th October, 2017 and with a request to the Judicial Member concerned to, on 4th October, 2017 or if for any reason it is not possible to consider the same on 4th October, 2017, as soon thereafter as possible, consider the petition and the application of the petitioner for interim reliefs.

A copy of this order be given *dasti* under signatures of Court Master.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 26, 2017

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