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

Judgment pronounced on: 12 February 2018

+ W.P.(C) 1272/2018

BAIJ NATH CHANDOK AND ANR. Petitioners
Through Mr. Awnish Kumar, Adv.

versus

UNION OF INDIA AND ORS. Respondents
Through Mr. P.S. Singh with Mr. Annu
Singh and Mr. Rajpal Singh,
Adv. for R-1 & 2

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HON'BLE MR. JUSTICE RAJIV SHAKDHER**

RAJIV SHAKDHER, J. (ORAL)

CM No.5330/2018

1. Allowed subject to all just exceptions.

W.P.(C) 1272/2018 & CM No.5329/2018

2. Issue notice. Mr. P.S. Singh accepts notice on behalf of respondents no.2 and 3 and says that he does not wish to file a counter affidavit in the matter in view of the fact that the issue is covered by a judgment of another Single Judge of this court, passed in W.P.(C) No.10797/2017, dated 21.12.2017, titled: *Jile Singh and Ors. vs. Union of India and Ors.*

3. Briefly, insofar as this case is concerned the petitioners aver that they were appointed as Directors to the Board of following three companies, namely, (i) Real Capital Residency Private Limited; (ii) Capital Realbuild Private Limited; and (iii) Capital Residencies Constructions Private Limited.

4. Learned counsel for the petitioners concedes that business was not carried out in the Capital Realbuild Private Limited and Capital Residencies Constructions Private Limited. Insofar as Real Capital Residency Private Limited is concerned the petitioners aver that business was being carried out.

5. The record, however, shows that all three companies have been struck off from the Register of Companies, apparently, for failure to file requisite annual returns.

6. I am informed by the counsel for the petitioners that the petitioners wish to revive Real Capital Residency Private Limited. As a matter of fact, counsel for the petitioners says that an appeal was filed under Section 252 of the Companies Act, 2013 with the NCLT, which was withdrawn with liberty to file a fresh appeal.

7. My attention in this behalf has been drawn to order dated 16.1.2018, passed by the NCLT. A perusal of the order shows that the appeal preferred by the petitioners was, apparently, not framed in consonance with the prescribed form and, therefore, it was permitted to be withdrawn with liberty to file a fresh appeal.

8. As regards the remaining two companies i.e., Capital Realbuild Private Limited and Capital Residencies Constructions Private Limited, the counsel for the petitioners says that the petitioners do not wish to revive these companies and therefore would be approaching the ROC for voluntary liquidation under Section 248 of the Companies Act, 2013.

9. Furthermore, counsel for the petitioners says that apart from these three companies, petitioners are also directors in other companies, which are active. For this purpose, my attention has been drawn to Annexure P-5 which is appended at pages 39-40 of the paper book.

10. It is in this background that the petitioners approached this Court and wish to take advantage of the directions contained in *Jile Singh's case* (supra).

11. Accordingly, the writ petition is disposed of with the direction that the directives contained in *Jile Singh's case* (supra) will apply *mutatis mutandis* to the petitioners as well.

12. Consequently, the impugned list of disqualified directors which includes the names of the petitioners is stayed till 31.3.2018.

13. Furthermore, the appeal, if any filed by the petitioners within three weeks from today, in respect of Real Capital Residency Private Limited, will be disposed of by NCLT as expeditiously as possible, bearing in mind that the Condonation of Delay Scheme, 2018 (in short 'Scheme') is to expire on 31.3.2018.

14. In case for any reason NCLT is unable to dispose of the appeal well before 31.3.2018 for reasons not attributable to the petitioners,

then, the respondents will extend the period of the Scheme to enable the petitioners to avail of the benefit of the Scheme.

15. Consequently, CM No.5329/2018 shall stand closed.

RAJIV SHAKDHER, J

FEBRUARY 12, 2018

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