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

+ CRL.M.C. 1620/2018, CRL. M.A. 5872/2018

M/S PUNJAB TUBES LTD & ANR

..... Petitioners

Through Mr. Pardeep Gupta, Mr. Parinav,
Ms.Mansi Gupta and Mr. Moazzam
Gupta, Advs.
Mr. R. S. Bhalla for Mr. Rishi Dalal.

versus

THE STATE GOVT OF NCT OF DELHI & ORS Respondents

Through SI Satyender Gulia, PS Kalakaji.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **05.07.2018**

During the course of hearing, the only relief, which is pressed by the learned counsel for petitioners is that order of Trial Court, whereby petitioners have been declared Proclaimed Offender may be set aside. Rest of reliefs have not been pressed.

Petitioner No.2 is the Director of petitioner No.1. Petitioners have been declared Proclaimed Offender by the Trial Court in the Complaint Case No. 2338/2015 filed by the respondent no.3 under Section 138 of the Negotiable Instrument Act, 1881 against the petitioners. Learned counsel for the petitioners submits that petitioners were not served with the summons issued by the Trial Court. Petitioner No.2 was not residing at the address given in complaint. The address of the petitioner given in the complaint is that of Mr. Mandeep Singh Gill. Arbitration proceedings also took place between the respondent No.3 and the petitioners, wherein address of the

petitioner no.2 was mentioned as 72-B, Vikas Nagar, Pakhowal Road, Ludhiana, Punjab. Respondent no.3 was aware of this address but mentioned a wrong address. Petitioner No.2 is presently living at 773-F, Sahid Bhagat Singh Nagar, Pakhowal Road, Model Town, Ludhiana. Since petitioner no.2 was not living at the address given in the complaint even NBWs had remained unexecuted. It is further submitted that during the proceeding under Section 82 Cr.PC, the Process Server had come to know that the petitioner no. 2 was not living at the address given in the complaint i.e. 213-E, Sahid Bhagat Singh Nagar, Pakhowal Road, Ludhiana. Head Constable Sukhvinder Singh of police station Kalkaji, who had gone to execute the proceeding under Section 82 Cr.P.C, has recorded the statement of the person found at the said address, namely, Vineet Vasistha, wherein Vineet Vasistha has categorically stated that Dalip Wadhwan (petitioner No.2) had never resided at the said address. The Statement of Vineet Vashistha has been placed on record at page 41. Learned counsel for the respondent No.3 submits that address of the petitioner as contained in the documents available with the respondent No.3 has mentioned in the complaint. Petitioner did not notify any change of address of respondent No.3.

Be that as it may, since the petitioners have made a specific statement that they are willing to join the proceedings, without going into the merit or demerit of the case, the proceedings whereby petitioners were declared as Proclaimed Offender are set aside.

Petitioners shall now appear before the Trial Court on 09th August, 2018.

Trial court shall therefore proceed in the matter in accordance with

law.

Petition is disposed of.

A.K. PATHAK, J

JULY 05, 2018

Pallavi