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

+ W.P.(C) 7461/2018

MALA KUMAR ENGINEERING PVT. LTD.
AND ORS.

..... Petitioners

Through: Ms Shivani Luthra Lohiya, Advocate.

versus

REGISTRAR OF COMPANIES AND ANR. Respondents

Through: Mr Vikram Jetly, CGSC for R-1 and
R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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20.07.2018

CM No.28572/2018

1. Allowed, subject to all just exceptions.

W.P.(C) 7461/2018 & CM No.28571/2018

2. The petitioner has filed the present petition, *inter alia*, praying as under:-

“A. Issue a writ of certiorari quashing the summons dated 12.04.2018 issued by the Ld. Additional Sessions Judge / Special Judge (Companies Act), Dwarka, New Delhi issued on the Complaint under Section 134(3)(o) / Section 450 of the Act filed by the Respondent No. 1; and

B. Issue a writ of certiorari quashing of the General Circular No. 21/2014 dated 18.06.2014; and

C. Issue a writ of certiorari directing quashing of the General Circular No. 01/2016 dated 12.01.2016 issued by the Respondent No. 2; and

D. Direct the Respondent No. 2, to desist from issuing circulars in order to clarify the statutory provisions of the Act and to adopt the statutorily mandated procedure for removal of difficulties;”

3. Mr Jetly, learned counsel who appears for the respondents on advance notice submits that the petitioners have already made a statement before the Special Judge (Companies Act) that the petitioners would be filing an appropriate application for compounding of all the offences. He submits that having made that statement, it would not be open for the petitioners to now contest the said proceedings. He has also handed over copy of the order dated 28.05.2018, wherein the statement made on behalf of the petitioners has been recorded.

4. He further states that the petitioners have also failed to disclose this fact in the present petition.

5. The learned counsel appearing for the petitioners states that although the aforesaid fact has not been stated in the writ petition, the same has been mentioned in the application filed for stay of the proceedings initiated under Section 450 of the Companies Act, 2013.

6. The contentions advanced on behalf of the respondents appear to be merited.

7. There is no dispute that an express statement was made on behalf of the petitioners that the petitioners would be filing an appropriate application for compounding of all the offences. The petitioner cannot now be heard to contend that there was no violation of the provisions of Section 135 the

Companies Act, 2013 and the same had been incorrectly interpreted.

8. In view of the above, this Court is not inclined to entertain the present petition. The same is, accordingly, dismissed. The pending application is also disposed of.

9. It is, however, clarified that the petitioners are not precluded from contesting the proceedings before the Special Judge, Companies Act.

VIBHU BAKHRU, J

JULY 20, 2018
MK/RK