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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(CRL) 2311/2018, CRL.M.A. 29260-61/2018 (stay and exemption)
ASHISH JAKHANWALA

..... Petitioner

Through: Mr. Siddharth Aggarwal, Mr. Gautam Khazanchi, Mr. Kumar Vaibhav and Mr. Zeeshan Diwan, Advs.

versus

STATE OF NCT OF DELHI & ANR

..... Respondent

Through: SI Sushil Kumar, P.S. IGI Airport.
Mr. Sanjeev Ralli, Mr. Dinesh Jinal Lo, Ms. Nitika Khanna, Advs. for R-2.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER
% **11.10.2018**

On the previous date, the following order was passed:

“The petitioner is aggrieved by a summoning order requiring him to appear before the Trial Court under section 16 of the Environment (Protection) Act, 1986 (‘the Act’ for short).

It is the petitioner’s case that he has nothing to do with running of the affairs of the company, the accused no. 1, which is said to have violated environmental norms.

Mr. Siddharth Aggarwal, the learned counsel for the petitioner states that the language of section 16 of the Act is specific i.e. a person would be liable only if he was directly incharge of, and was responsible, for the conduct of the business of the company.

He submits that the complainant has brought nothing on record to show that the petitioner was directly incharge of or responsible for the affairs of the company or for the conduct of its business. The complaint by R-2 merely refers to the petitioner as the person who was the Authorized Signatory on behalf of accused no. 1 at the time of leasing out of land to the said company, by Delhi International Airport Limited (DIAL). But thereafter he has had nothing to do with its day-to-day functioning. His role as an investor had long since ceased.

It is the petitioner's case that apart from reference to this limited role of the petitioner, there is nothing to show that he was directly involved in running the affairs of the company; that although the complaint goes on to say that the petitioner, along with other persons named in the complaint, was responsible for directly maintaining the affairs of the company, there is nothing on record to show that he was indeed so engaged, therefore, the summoning order is erroneous. The learned counsel contends that on the basis of record before this Court, which is the same as was before the Trial Court, there is evidently no material to warrant the issuance of the impugned/summoning order.

The learned counsel for R-2, who appears on service of advance copy of the petition, states that there would be material on record to substantiate the summons. He seeks time to bring the same on record before this Court.

Notice. Counsel as mentioned above accept notice.

Renotify on 11.10.2018.

Till the next date of hearing, the impugned order shall remain stayed."

The respondent has filed an affidavit stating that tenure of R-2 i.e. State Level Environment Impact Assessment Authority, Delhi (SEIAA), which was earlier in existence, has since lapsed and a new authority is yet to be notified.

Be that as it may, it is the petitioner's case that he was an employee of one of the two investors in the company, who have developed the hotel. He is neither an investor nor has any personal interest in M/s InterGlobe Hotels Pvt. Ltd., in which he was employed many years earlier. M/s. InterGlobe Hotels Pvt. Ltd. together with Accor Group of France had formed a company called M/s Caddie Hotels Private Ltd. The land was accepted by the petitioner on behalf of M/s Caddie Hotels Private Ltd., in his capacity as an Authorized Signatory. He has since left the company. He had neither any managerial position nor has he developed the hotel. The acceptance of land was in the capacity of an employee of M/s. InterGlobe Hotels Pvt. Ltd. but as an Authorized Officer on behalf of M/s. Caddie Hotels Private Ltd. the investor.

The learned counsel for the petitioner refers to the Form which was submitted by the Delhi International Airport Limited (DIAL) to R-2, it specified the name of the contact person i.e. who individual would be in-charge for the proposed hotel project, where the constructions/developments were undertaken. Since, the petitioner was not a person specified under Form-1 nor was he, in any way, responsible for the development of the proposed hotel project, he cannot be deemed to be responsible for any action taken apropos the said project. It is not the case of the respondent no. 2 that the petitioner had applied for clearance under the Environment (Protection) Act, 1986.

In the aforesaid circumstances, the petitioner cannot be deemed to be a person responsible for the said project. Therefore, the summons issued to him would not be maintainable. The order is accordingly quashed.

It will be open to the respondent to initiate appropriate remedial measures apropos other officers who may be found to be responsible for the

project.

The petition is disposed off in the above terms.

NAJMI WAZIRI, J

OCTOBER 11, 2018/acm