

\$~66

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

+ **FAO(OS) (COMM) 185/2018 & CM APPL. 33481-83/2018**
NITYANK INFRAPOWER & MULTIVENTURES PVT LTD

..... Appellant

Through: Mr. Rajiv Nayar, Sr. Advocate with
Ms. Bindi Dave, Mr. Nihal Basheer,
Mr. Aman Gandhi, Mr. Abhirath
Thakur and Mr. Abhishek Sharma,
Advocates.

versus

ELECTROPARTS (INDIA) PVT LTD & ORS Respondents

Through: Mr. Faisal Sherwani, Mr. Shikher
Deep Aggarwal, Mr. Aditya Vikram
and Mr. Achal Gupta, Advocates for R-
10.
Mr. Arvind Nigam, Mr. Jayant
Bhushan and Mr. Akhil Sibal, Senior
Advocates with Mr. Murtaza,
Mr. Apoorv Shukla, Mr. Nikhil Sharda,
Mr. Mehtaab Singh and
Mr. Sandhu, Advocates for caveators.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

%

21.08.2018

CAVEAT No.745/2018

Since the counsel for the caveator has put in appearance the
caveat stands discharged.

FAO(OS) (COMM) 185/2018 & CM APPL. 33481-83/2018

Admit.

Learned counsel for the respondent accepts notice of admission of
the appeal.

We have heard learned counsel for the parties.

The appeal is directed against an ex-parte ad-interim order made in I.A.No.10206/2018.

The third defendant/appellant, represented by Mr. Rajiv Nayar, learned senior counsel urged various contentions, including the suppression of material facts and a legal bar on account of Section 430 of the Companies Act, 2013 to the maintainability of the suit preferred by the respondent/plaintiff.

The Court notices that the ex-parte ad-interim order was made on 02.08.2018; the appellant and the other defendants could have entered their defence.

In these circumstances, it would be inappropriate (also having regard to the provisions of Commercial Courts Act, 2015) to entertain the present appeal. However, this Court is of the opinion that the appellant and the concerned affected defendants must file their written statements and reply/replies, if any, to the application under Order XXXIX Rule 1 CPC on or before 31.08.2018. In such event, the learned Single Judge is requested to consider the application on merits on 05.09.2018 and thereafter dispose it of as expeditiously as possible in the given circumstances. All rights and contentions of the parties are kept open.

Appeal is disposed of in the above terms. Pending applications stand disposed of.

S. RAVINDRA BHAT, J

ANU MALHOTRA, J

AUGUST 21, 2018/nn