$~23 (Company)

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

***Date of Decision: 04.11.2022***

\+ CO.APPL.(M) 5/2022

HARENDRA SINGH KHOKHAR ..... Petitioner

Through:

versus

SHUBHKAMNA BUILDWELL AND ESTATES PVT LTD ..... Respondent

Through: Ms.Ruchi Sindhwani, Sr. SC and Ms.Megha Bharara, Adv. for OL.
Mr.Alok K. Aggarwal, Ms.Anushruti, Ms.Simran Arora, Adv.for ex-director Mr.H.S. Khokhar.
Mr.Arun Vohra and Mr.Dilip Kumar, Advs. for Japna Estate Pvt. Ltd.

**CORAM:**
**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**NAVIN CHAWLA, J. (Oral)**

1. This application has been filed under Sections 391 to 393 of the Companies Act, 1956 seeking sanction of the proposed scheme of compromise and arrangement between the respondent-company and its creditors. The same has been propounded by Mr.Harendra Singh Khokhar, shareholders/former director of the respondent-company.

2. I have perused the proposed scheme of compromise and arrangement. In the said scheme, there is no mention of any secured creditors of the respondent-company. I have inquired from the learned counsel for the applicant if any inquiry was made on the respondent-company having secured creditors. She fairly submits that no such inquiry has been made by the propounder of the scheme. This itself shows the frivolous nature of the scheme and how casually the same has been prepared and presented before this Court.

3. Even otherwise, the scheme does not propose manner in which the project in question of the respondent-company shall be completed, if at all. It seeks to only take benefits and rebate from the flat-buyers as also from the statutory authorities in the form of waivers. It does not, in fact, even deal with the claim of the petitioner in whose petition the respondent-company was directed to wound up, and who has a claim of Rs.10.40 Crore. The learned counsel for the petitioner in CO.PET.989/2015 submits that the said petitioner also holds a lien of 276 flats of the respondent-company, which lien is duly registered with the Registrar of Companies. The same has not even been mentioned in the said scheme, leave alone any statement been made as to how this claim would be dealt by the propounder of the scheme. I find that the scheme is totally frivolous.

4. I may here also note the submission of the learned counsel for the Official Liquidator that though the applicant admits that he became majority shareholder in the respondent-company in the year 2015, in answer to the notice issued by the Official Liquidator calling upon him to file the Statement of Affairs of the Company, he has pleaded

ignorance of the affairs of the Company. I, therefore, find the present scheme to be intended to somehow derail the liquidation process initiated against the Company.

5. The application is, therefore, dismissed with cost quantified as Rs. one Lakh to be deposited with the Official Liquidator, which shall be adjusted by the Official Liquidator towards the expenses incurred by the Official Liquidator for the liquidation process of the respondent-company.

**NAVIN CHAWLA, J**

**NOVEMBER 04, 2022**
**ARYA**