

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-14617-2023 (O&M)

Date of decision : 13.07.2023

SHIVAM R. GUPTA

...Petitioner

Versus

NATIONAL COMPANY LAW TRIBUNAL CHANDIGARH
AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Sandeep K. Sharma, Advocate
for the petitioner.

HARSH BUNGER, J.

Petitioner (Shivam R. Gupta) has filed this petition under Articles 226/227 of the Constitution of India, seeking issuance of a direction to respondent No.1 (National Company Law Tribunal, Bench at Chandigarh) (for short 'the NCLT'), to decide the application bearing No.**CA 72/2023** (Annexure P-9), seeking interim relief qua the shareholding of respondent No.2-Company, to be excluded from Form-G published by respondent No.3-Company.

2. Briefly, the petitioner herein filed an application under Section 7(7) of the Companies Act 2013, seeking removal of name of respondent No.2-Company from the Registrar of Companies and for winding up of the Company, *inter alia*, on the plea that respondent No.2-Company has been incorporated in a fraudulent and clandestine manner by furnishing false and incorrect information in material documents required for incorporation of

respondent No.2-Company and by suppressing material information. The said application is stated to have been registered as CP No.149/CHD/HRY/2019.

3. It is submitted that on an earlier occasion, the petitioner had filed an application for interim relief, restraining respondent No.2-Company from alienating its assets; however, since the said application was not being decided; accordingly, the petitioner filed **CWP-3786-2022**, seeking a direction to the NCLT, Chandigarh, to decide the said application filed by him. However, the said writ petition was dismissed by the Coordinate Bench of this Court vide order dated 29.07.2022 (Annexure P-4), by observing that since the matter is already pending before the NCLT; accordingly, it was not appropriate to interfere in the matter, in any manner whatsoever.

4. The aforesaid order dated 29.07.2022 was challenged by way of an intra-court appeal i.e. **LPA No.671 of 2022**; however on 16.08.2022, the following order was passed by the LPA Bench :-

“Learned counsel for the appellant states that the application for stay is now listed for hearing on 01.09.2022 and he would move an application before the National Company Law Tribunal (NCLT), Chandigarh Bench, for consideration of the stay application on the said date.

Keeping in view the facts and circumstances of the present appeal, we are sanguine that if such a request is made, the NCLT will look into the same and pass appropriate orders.

List for consideration on 15.09.2022.”

5. It appears that subsequently, an application seeking interim relief filed by the petitioner was taken up by the NCLT and the same was decided on 01.09.2022 by observing as under :-

“Learned counsel for respondent Nos.1 & 2 is not present, as there has been a bereavement in his family. Pleadings are otherwise complete. In the meantime, if respondents want to have any alienation of the assets of the company then the factum of pendency of the present petition before this Bench be mentioned expressly in the document so executed for the purpose of alienation.”

6. In view of order dated 01.09.2022, the afore-said **LPA No.671-2022** was also disposed of on 23.01.2023 by observing that the interest of the petitioner herein had been protected by the Tribunal; accordingly, the appeal was rendered infructuous.

7. Now the instant writ petition has been filed by the petitioner on the plea that the Resolution Professional of respondent No.3-Company has already published Form-G on 15.02.2023 and accordingly, the petitioner has filed another application seeking interim relief for restraining respondent No.3-Company from alienating the shareholding of respondent No.2-Company under Form-G published through its Resolution Professional. Accordingly, the prayer is made for directing the NCLT to decide the main application bearing **CA 72 of 2023**.

8. I have heard learned counsel for the petitioner and have perused the paper book with his able assistance.

9. After considering the prayer made by the petitioner, I am of the considered view that since the matter is already pending before the NCLT; accordingly, it would not be appropriate to interfere in the matter as

the petitioner can always move necessary application for hearing of his case/application on priority.

- 10. The writ petition is accordingly dismissed.
- 11. All pending application/s, if any, shall also stand closed.

July 13th, 2023
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No