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

+ **W.P.(C) 2092/2024**

M/S GALAXY NIRMAAN PRIVATE LIMITED..... Petitioner
Through: **Mr. Attin Shanker Rastogi, Mr**
Archit Chauhan, Mr. Adil
Vasudeva and Mr. Joel, Advs.

versus

KANTI PRASAD AGARWAL & ORS. Respondents
Through: **None.**

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **13.02.2024**

CM APPL. 8693/2024 – EXMP.

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 2092/2024

3. The petitioner, which is Private Limited Company, is invoking supervisory jurisdiction of this Court under Article 227 of the Constitution of India read with Section 244 of the Companies Act, 2013, seeking following reliefs:

“**A.** Dismiss the Company Petition No. 63(ND) of 2012 titled “M/s Kanti Prasad Agarwal & Ors. v. Galaxy Nirman Private Limited” pending adjudication before the Hon’ble National Company Law Tribunal (Bench II), New Delhi;

OR IN THE ALTERNATIVE

B. Direct the Hon’ble National Company Law Tribunal (Bench II), New Delhi for disposal of I.A. bearing No. 270/2023 in Company Petition No. 63(ND) of 2012 that is currently pending adjudication in 2 weeks;



C. Pass any other order and/or direction, as this Hon'ble Court may Deem fit and proper under the facts and circumstances of the instant case in favour of the Petitioner Company and against the Respondents, in the interest of justice.”

4. No one is present despite advance notice given to the respondent parties.

5. Learned counsel for the petitioner company has urged that Company Petition No. 63(ND) of 2012 seeking reliefs under Sections 397/398 read with Section 235/237 besides Section 111 of the Companies Act, 2013 instituted at the behest of respondent Nos. 1 to 3 are subjudice before the National Company Law Tribunal (Bench II), New Delhi. It is urged that the same is not maintainable in view of the fact that they are not the share holders in the petitioner company and the petition is entertained in contravention of Section 241 and 242 of the Companies Act, 2013.

6. The long and short of the submissions is that the respondent Nos. 1 to 3 are falsely claiming that they are share holders to the extent of 18.39% of the petitioner company and have claimed that pursuant to the agreement dated 04.09.2004 executed with the petitioner company, they brought and infused their own large chunk of land for the project/township to be developed at Agra, State of Uttar Pradesh.

7. It is also urged that contrary to the aforesaid stand in the petition filed by the respondent Nos. 1 to 3, they have taken altogether a new plea in the connected arbitration proceedings between the parties titled as ‘Rajdarbar Pan Masala v. Kasturi Awas Sahkari Samiti Limited’ before the learned Arbitral Tribunal, appointed by the Supreme Court, claiming to be still in possession of the land against which they have claimed to have been allotted the subject shares in



respondent No.1 company; and that respondent Nos. 2 and 3 have asserted their ownership over the subject land in the arbitration proceedings.

8. Learned counsel for the petitioner company has vehemently urged that they have obtained fresh documents from the Website of Ministry of Corporate Affairs and they have found that respondent Nos. 2 and 3 do not hold any shares in the respondent No.1 company. It submitted that although an application bearing IA No. 270/2023 has been filed before the National Company Law Tribunal for consideration of the aforesaid contradictory stand, the same has not yet been considered resulting in gross injustice since they are suffering a stay order since 21.01.2015 resulting in unnecessary harassment and recurring financial losses.

9. This Court is not oblivious of huge pendency of the cases before the National Company Law Tribunal. However, it stares on the face of the record that there is an interim order operating for long and the application of the petitioner company as regards the maintainability of the proceedings need to be adjudicated upon in a time bound manner, particularly if there is an element of abusing the process of law. It is pointed out that the matter is coming up for hearing tomorrow i.e. 14.02.2024.

10. The present Writ Petition is disposed of with the direction to the National Company Law Tribunal (Bench II), New Delhi to ensure that IA No. 270/2023 in Company Petition No. 63(ND) of 2012 is considered and decided in accordance with law within four to six weeks from today.

11. No further orders are called for.

12. The Writ Petition stands disposed of accordingly.



13. A copy of this order be given *dasti* under the signatures of the Court Master.

DHARMESH SHARMA, J.

FEBRUARY 13, 2024/*sm*