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

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Date of Decision: 11.01.2024+ **FAO(OS) (COMM) 218/2023 & CM 53276/2023, CM 53277/2023****TWENTY FIVE SOUTH REALTY LTD**

..... Appellant

Through: Mr Harin P.Raval, Senior Advocate
with Ms Aakansha Kaul, Mr Karan
Bharhokl and Mr Siddhant Sharma,
Advocates.

versus

DLF LIMITED & ORS.

..... Respondents

Through: Mr.Rajiv Nayar, Senior Advocate, Mr
Darpan Wadhwa, Senior Advocate
with Ms Ruby Singh Ahuja, Mr
Pravin Bahadur, Mr Vishal Gehrana,
Mr Ishan Gaur, Mr Jappanpreet Hora,
Ms Kanika Agnihotri, Ms Manjira
Das Gupta, Ms Kanika, Mr Saurabh
and Ms Karan Jawala, Advocates for
respondent no.1.

Mr Akhil Sibal, Senior Advocate with
Mr Ashish K Singh, Mr Amit K
Singh, Ms Muskan Malhotra, Mr
Rishabh Sharma, Mr Rishabh Darira,
Ms Ritika Bhardwaj, Mr Deepak
Sethi and Ms Palak Tyagi, Advocates
for respondent no.2.

Mr Parag P. Tripathi, Senior
Advocate, Mr Vijay Nair, Mr.Rajat
Joneja, Mr Arpit Dwivedi, Ms Sakshi
Kapoor, Mr Anmol Kumar and Ms
Vasundhra Bakhru, Advocates for
respondent no.3.

Mr Prateek Seksaria, Senior Advocate
with Mr Sajit Suvarna, Mr Nirav

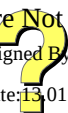
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Shah, Ms Shivani Khanwilkar, Ms Aneesa Cheema, Mr Varun Kalra, Mr Krbhan Kumar, Mr Rohit Agarwal

and Mr Nishant Chouthani, Advocates for respondent no.5.

Mr.Saurabh Kirpal, Senior Advocate with Ms Khushbu Chajeed, Mr Yash Dhruva and Ms Adya Luthra, Advocates for Joyous Ltd.

+ **FAO(OS) (COMM) 219/2023 & CM 53279/2023, CM 53280/2023**

TWENTY FIVE SOUTH REALTY LTD

..... Appellant

Through: Mr Harin P.Raval, Senior Advocate with Ms Aakansha Kaul, Mr Karan Bharihokl and Mr Siddhant Sharma, Advocates.

versus

CHINSHA PROPERTY PRIVATE LIMITED & ORS.

..... Respondent

Through: Mr Sandeep Sethi, Senior Advocate with Ms Kanika Agnihotari, Mr Jasmeet Singh, Mr Mahinder Singh Hura, Mr Saif Ali, Mr Pushpendra S. Bhadoriya, Ms Pratiksha Chaturvedi, Mr Vijay Sharma, Mr Amit Mishra, Mr Sumer Dev Seth and Ms Riya Kumar, Advocates for respondent no.1.

Mr Akhil Sibbal, Senior Advocate with Mr Ashish K Singh, Mr Amit K Singh, Ms Muskan Malhotra, Mr Rishabh Sharma, Mr Rishabh Darira, Ms Ritika Bhardwaj, Mr Deepak

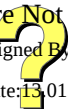
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FAO(OS) (COMM) 218/2023 and connected matters

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Sethi and Ms Palak Tyagi, Advocates for respondent no.2.

Mr Parag P. Tripathi, Senior Advocate with Mr Vijay Nair, Mr.Rajat Joneja, Mr Arpit Dwivedi, Ms Sakshi Kapoor, Mr Anmol Kumar and Ms Vasundhra Bakhru, Advocates for respondent no.3.

Mr Prateek Seksaria, Senior Advocate with Mr Sajit Suvarna, Mr Nirav Shah, Ms Shivani Khanwilkar, Ms Aneesa Cheema, Mr Varun Kalra, Mr Krbhan Kumar, Mr Rohit Agarwal and Mr Nishant Chouthani, Advocates for respondent no.5.

Mr.Saurabh Kirpal, Senior Advocate with Ms Khushbu Chajeed, Mr Yash Dhruva and Ms Adya Luthra, Advocates for Joyous Ltd.

+ **FAO(OS) (COMM) 220/2023**

OMKARA ASSET RECONSTRUCTION COMPANY LIMITED

..... Appellant

Through: Mr Parag Tripathi, Mr Vijay Nair, Mr.Rajat Joneja, Mr Arpit Dwivedi, Ms Sakshi Kapoor, Mr Anmol Kumar and Ms Vasundhra Bakhru, Advocates.

versus

CHINSHA PROPERTY PRIVATE LIMITED & ORS.

..... Respondent

Through: Mr Sandeep Sethi, Senior Advocate with Ms Kanika Agnihotari, Mr Jasmeet Singh, Mr Mahinder Singh Hura, Mr Saif Ali, Mr Pushpendra S.

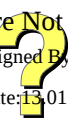
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Bhadoriya, Ms Pratiksha Chaturvedi, Mr Vijay Sharma, Mr Amit Mishra, Mr Sumer Dev Seth and Ms Riya Kumar, Advocates for respondent no.1.

Mr Akhil Sibal, Senior Advocate with Mr Ashish K Singh, Mr Amit K Singh, Ms Muskan Malhotra, Mr Rishabh Sharma, Mr Rishabh Darira, Ms Ritika Bhardwaj, Mr Deepak Sethi and Ms Palak Tyagi, Advocates for respondent no.4.

Mr Prateek Seksaria, Senior Advocate with Mr Sajit Suvarna, Mr Nirav Shah, Ms Shivani Khanwilkar, Ms Aneesa Cheema, Mr Varun Kalra, Mr Krbhan Kumar, Mr Rohit Agarwal and Mr Nishant Chouthani, Advocates for respondent no.5.

Mr.Saurabh Kirpal, Senior Advocate with Ms Khushbu Chajeed, Mr Yash Dhruva and Ms Adya Luthra, Advocates for Joyous Ltd.

+ **FAO(OS) (COMM) 221/2023**

OMKARA ASSET RECONSTRUCTION COMPANY LIMITED

..... Appellant

Through: Mr Parag Tripathi, Mr Vijay Nair, Mr.Rajat Joneja, Mr Arpit Dwivedi, Ms Sakshi Kapoor, Mr Anmol Kumar and Ms Vasundhra Bakhru, Advocates.

versus

DLF LIMITED & ORS.

..... Respondents

Through: Mr.Rajiv Nayar, Senior Advocate, Mr

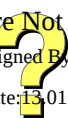
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FAO(OS) (COMM) 218/2023 and connected matters



Darpan Wadhwa, Senior Advocate with Ms Ruby Singh Ahuja, Mr Pravin Bahadur, Mr Vishal Gehrana, Mr Ishan Gaur, Mr Jappanpreet Hora, Ms Kanika Agnihotri, Ms Manjira Das Gupta, Ms Kanika, Mr Saurabh and Ms Karan Jawala, Advocates for respondent no.1.

Mr Sandeep Sethi, Senior Advocate with Ms Kanika Agnihotari, Mr Jasmeet Singh, Mr Mahinder Singh Hura, Mr Saif Ali, Mr Pushpendra S. Bhadoriya, Ms Pratiksha Chaturvedi, Mr Vijay Sharma, Mr Amit Mishra, Mr Sumer Dev Seth and Ms Riya Kumar, Advocates for respondent no.2.

Mr Akhil Sibal, Senior Advocate with Mr Ashish K Singh, Mr Amit K Singh, Ms Muskan Malhotra, Mr Rishabh Sharma, Mr Rishabh Darira, Ms Ritika Bhardwaj, Mr Deepak Sethi and Ms Palak Tyagi, Advocates for respondent no.4.

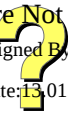
Mr Prateek Seksaria, Senior Advocate with Mr Sajit Suvarna, Mr Nirav Shah, Ms Shivani Khanwilkar, Ms Aneesa Cheema, Mr Varun Kalra, Mr Krbhan Kumar, Mr Rohit Agarwal and Mr Nishant Chouthani, Advocates for respondent no.5.

Mr.Saurabh Kirpal, Senior Advocate with Ms Khushbu Chajeed, Mr Yash Dhruva and Ms Adya Luthra, Advocates for Joyous Ltd.

+ **FAO(OS) (COMM) 227/2023, CM 54243/2023, CM 61429/2023**
PNB HOUSING FINANCE LIMITED Appellant

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FAO(OS) (COMM) 218/2023 and connected matters



Through: Mr Akhil Sibal, Senior Advocate with Mr Ashish K Singh, Mr Amit K Singh, Ms Muskan Malhotra, Mr Rishabh Sharma, Mr Rishabh Darira, Ms Ritika Bhardwaj, Mr Deepak Sethi and Ms Palak Tyagi, Advocates.

versus

DLF LIMITED & ORS.

..... Respondents

Through: Mr.Rajiv Nayar, Senior Advocate, Mr Darpan Wadhwa, Senior Advocate with Ms Ruby Singh Ahuja, Mr Pravin Bahadur, Mr Vishal Gehrana, Mr Ishan Gaur, Mr Jappanpreet Hora, Ms Kanika Agnihotri, Ms Manjira Das Gupta, Ms Kanika, Mr Saurabh and Ms Karan Jawala, Advocates for respondent no.1.

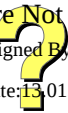
Mr Sandeep Sethi, Senior Advocate with Ms Kanika Agnihotari, Mr Jasmeet Singh, Mr Mahinder Singh Hura, Mr Saif Ali, Mr Pushpendra S. Bhadoriya, Ms Pratiksha Chaturvedi, Mr Vijay Sharma, Mr Amit Mishra, Mr Sumer Dev Seth and Ms Riya Kumar, Advocates for respondent no.2.

Mr Prateek Seksaria, Senior Advocate with Mr Sajit Suvarna, Mr Nirav Shah, Ms Shivani Khanwilkar, Ms Aneesa Cheema, Mr Varun Kalra, Mr Krbhan Kumar, Mr Rohit Agarwal and Mr Nishant Chouthani, Advocates for respondent no.3.

Mr Parag Tripathi, Mr Vijay Nair, Mr.Rajat Joneja, Mr Arpit Dwivedi, Ms Sakshi Kapoor, Mr Anmol Kumar

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and Ms Vasundhra Bakhru,
Advocates for respondent no.5.

Mr.Saurabh Kirpal, Senior Advocate
with Ms Khushbu Chajeed, Mr Yash
Dhruva and Ms Adya Luthra,
Advocates for Joyous Ltd.

+ **FAO(OS) (COMM) 249/2023 & CM 58598/2023, CM 58599/2023,
CM 58600/2023**

PNB HOUSING FINANCE LIMITED

..... Appellant

Through: Mr Akhil Sibal, Senior Advocate with
Mr Ashish K Singh, Mr Amit K
Singh, Ms Muskan Malhotra, Mr
Rishabh Sharma, Mr Rishabh Darira,
Ms Ritika Bhardwaj, Mr Deepak
Sethi and Ms Palak Tyagi, Advocates.

versus

CHINSHA PROERERTY PRIVATE LIMITED & ORS.

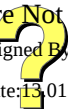
..... Respondent

Through: Mr Sandeep Sethi, Senior Advocate
with Ms Kanika Agnihotari, Mr
Jasmeet Singh, Mr Mahinder Singh
Hura, Mr Saif Ali, Mr Pushpendra S.
Bhadoriya, Ms Pratiksha Chaturvedi,
Mr Vijay Sharma, Mr Amit Mishra,
Mr Sumer Dev Seth and Ms Riya
Kumar, Advocates for respondent
no.1.

Mr Prateek Seksaria, Senior Advocate
with Mr Sajit Suvarna, Mr Nirav
Shah, Ms Shivani Khanwilkar, Ms
Aneesa Cheema, Mr Varun Kalra, Mr
Krbhan Kumar, Mr Rohit Agarwal
and Mr Nishant Chouthani,

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Advocates for respondent no.3.
Mr Parag Tripathi, Mr Vijay Nair,
Mr.Rajat Joneja, Mr Arpit Dwivedi,
Ms Sakshi Kapoor, Mr Anmol Kumar
and Ms Vasundhra Bakhru,
Advocates for respondent no.5.
Mr.Saurabh Kirpal, Senior Advocate
with Ms Khushbu Chajeed, Mr Yash
Dhruva and Ms Adya Luthra,
Advocates for Joyous Ltd.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MR. JUSTICE AMIT BANSAL

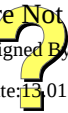
RAJIV SHAKDHER, J. (ORAL)

[Physical Hearing/Hybrid Hearing (as per request)]

1. Issue notice.
 - 1.1 Learned counsels appearing for the respondents in the above-captioned matters accept notice.
2. With the consent of the counsel for the parties, the appeals are taken up for hearing and final disposal, at this stage itself.
3. The above-captioned appeals are directed against the judgment dated 18.09.2023 passed by the learned Single Judge.
4. *Via* the impugned judgment, the learned Single Judge has disposed of the Section 9 petitions preferred under the Arbitration and Conciliation Act, 1996 [in short, "1996 Act"].
 - 4.1 The aforementioned Section 9 petitions were preferred by the DLF Limited [in short, "DLF"] and Chinsha Property Private Limited [in short, "Chinsha Property"]. It is not in dispute that DLF and Chinsha Property are shareholders of a company named Joyous Housing Ltd. [in short, "JHL"].

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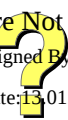


5. Counsels for the appellants submit that the impugned judgment was passed without an opportunity being accorded to them to file replies to the Section 9 petitions.
6. The operative directions which the learned Single Judge has issued are contained in Paragraph 42. For convenience, the said directions are extracted hereafter:

“42. Prayer (b) is inchoate in view of Prayer (a) since the identity of the transferee is not known yet, in view of which, no order can be passed against the unknown transferees. However, it would be appropriate if pledged shares sold to a third party by Omkara are kept in a suspended animation by directing JHL not to recognise further sale, if any, undertaken by Omkara transferees. If any request is received by JHL by further transferees the same shall not be acted upon by JHL and further transferees shall not be recorded as members (shareholders) in the record of JHL.”

[Emphasis is ours]

7. We may note that insofar as the shareholding pattern of JHL is concerned, at the relevant point in time, it was broadly as follows:
- (i) 37.5% equity stake was held by DLF.
 - (ii) Another 37.5% equity stake was held by Chinsha Property.
 - (iii). The balance 25% equity stake was held by Hubtown Ltd [in short, “Hubtown”].
8. We may also note that one of the appellants i.e., Twenty Five South Realty Ltd [in short, “Twenty Five South”] is a transferee, which has acquired the shares held by DLF and Chinsha via yet another appellant before us i.e., Omkara Asset Reconstruction Company Limited [in short, “Omkara”]
9. Twenty Five South, thus, acquired 75% of the equity stake in JHL.





9.1. Mr. Harin P. Raval, learned senior advocate, who appears for the said appellant, on instructions, confirms that Twenty Five South continues to hold 75% of the equity stake in JHL.

9.2. Likewise, Mr. Prateek Seksaria, learned counsel, who appears for Hubtown, on instructions, confirms that the said entity continues to hold 25% shares in JHL.

12. Since the appellants before us were not given an opportunity to file replies to the Section 9 petitions, according to us, the matter requires fresh examination by the learned Single Judge.

13. Notably, Mr Raval, on instructions, states that to facilitate a fair hearing in the matter, he has instructions to convey to the court that Twenty Five South will continue to hold 75% equity stake in JHL till such time the Section 9 petitions are disposed of by the learned Single Judge.

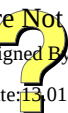
14. Mr Seksaria, however says that since no direction has been issued by the impugned judgment *qua* Hubtown, he cannot make a statement of the kind that Mr Raval has made before us.

14. Mr Rajiv Nayar, learned senior advocate, who represents DLF and Mr Sandeep Sethi, learned senior advocate, who represents Chinsha Property, say that the same directions need to be issued *qua* Hubtown as well.

15. In our view, at this juncture, we would not be able to issue any direction *qua* Hubtown, especially since Hubtown is not in appeal before us against the impugned judgment.

15.1. However, liberty is granted to DLF and Chinsha Property to move the learned Single Judge by way of an appropriate application, if deemed fit, for securing their interest *vis-à-vis* Hubtown.

16. Furthermore, Mr. Saurabh Kirpal, learned senior advocate, who





appears on behalf of JHL, confirms that the shareholding pattern as it obtains today is reflective of the fact that 75% of the equity stake is held by Twenty Five South, while the remaining 25% is held by Hubtown.

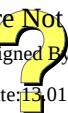
17. Accordingly, the above-captioned appeals are disposed of with the following directions:

- (i) The impugned judgment is set aside. The learned Single Judge is requested to rehear the Section 9 petitions.
- (ii) Twenty Five South will continue to retain 75% equity stake in JHL till the disposal of the Section 9 petitions.
- (iii) Since Mr Kirpal says that the optionally-convertible debentures have an unexpired timespan of six (6) months, and therefore, the shareholding pattern would remain unaltered for the next six (6) months, we request the learned Single Judge to dispose of the Section 9 petitions at the earliest, bearing in mind the limiting factor flagged by Mr Kirpal.
- (iv) Twenty Five South and JHL will file affidavits of undertaking before this Court, in the backdrop of the statement made before us by Mr Raval and Mr Kirpal.
- (v) Liberty is given to DLF and Chinsha Property to move appropriate applications before the learned Single Judge to secure their interest *vis-à-vis* Hubtown, as deemed fit.

18. List the Section 9 petitions before the learned Single Judge for directions on 15.01.2024.

19. Needless to add, we have not expressed any view on the merits of the controversy obtaining between the parties.

20. Before we conclude, we may indicate that while passing the order dated 10.01.2024, we had noted that Mr Raval who, as indicated above, only





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appears for Twenty Five South, will continue to maintain *status quo* not only with regard to the equity stake held by Twenty Five South, but also Hubtown.

21. This direction was issued on account of a communication gap. As indicated above, Hubtown was represented by Mr Seksaria, both on that date and today. Therefore, Mr Raval could not have given any concession *qua* Hubtown.

21.1. The order dated 10.01.2024 shall stand corrected to that extent.

22. Parties will act based on the digitally signed copy of the order.

(RAJIV SHAKDHER)
JUDGE

(AMIT BANSAL)
JUDGE

JANUARY 11, 2024/rt

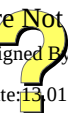
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