



2024:DHC:8332-DB



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

+ LPA 1066/2024 & C.M.Nos.62733-62735/2024

PAWAN KUMAR GARG & ANRAppellants

Through: Ms.Astha Gumber with Mr.Manohar
Malik and Mr.Prateek Chauhan,
Advocates.

versus

PUNJAB NATIONAL BANKRespondent

Through: Dr.Surender Singh Hooda, Advocate.

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Date of Decision: 24th October, 2024

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

MANMOHAN, CJ : (ORAL)

1. Present letters patent appeal has been filed on behalf of the appellants-petitioners challenging the order dated 17th September, 2024 passed by the learned Single Judge of this Court in W.P.(C) 12981/2024.

2. The appellants are aggrieved by the fact that despite having a *prima facie* case, the learned Single Judge has not granted any interim relief by restraining the respondent/bank from taking any action consequent to declaration of Apple Industries Limited and its erstwhile directors/promoters and guarantors as fraud. The appellants are ex-director and guarantor of Apple Industries Limited, which has now been sold as a going concern.



3. Learned counsel for the appellants contends that the declaration of account of Apple Industries Limited as fraud is arbitrary, illegal and in contravention of the judgment of the Supreme Court in ***State Bank of India v. Rajesh Agarwal, (2023) 6 SCC 1*** as no opportunity of representation/personal hearing was granted to the company. She states that the declaration was made without following due process and Master Circulars dated 01st July, 2016 and 15th July, 2024 issued by Reserve Bank of India.

4. She states that two detailed forensic audits were conducted in the year 2017 and 2018 at behest of the respondent/bank, wherein the auditors did not find any activity or transaction which would tantamount to fraud. She further states that the declaration as fraud was made without conducting any fresh investigation or audit.

5. Per contra, learned counsel for the respondent/bank states that the present appeal is not maintainable as the learned Single Judge has not passed any judgment in the present case and the impugned order is purely interlocutory. In support of his submission, he relies upon the judgment of this Court in ***Niko Resources Limited vs. Gujrat State Petroleum Corp. 2000 (55) DRJ (DB)***.

6. A perusal of the impugned order shows that the same has been passed after considering the fact that in another writ petition being W.P.(C) No.12719/2024 filed by another ex-director of the company, no stay has been granted by the learned Single Judge. In fact, a perusal of order dated 11th September, 2024 passed in W.P.(C) No.12719/2024 reveals that the interim relief was denied on the ground that no reply was filed to the impugned show-cause notice and the order dated 30th March, 2024 had



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wrongly been assailed as a show-cause notice. The learned Single Judge in W.P.(C) No.12719/2024 has also *prima facie* found that the order dated 30th March, 2024 is a reasoned order.

7. Keeping in view the fact that the learned Single Judge has denied interim relief on the ground of parity, present appeal along with the applications is dismissed. However, it is clarified that the present order shall not bind the learned Single Judge while deciding the writ petition.

MANMOHAN, CJ

TUSHAR RAO GEDELA, J

OCTOBER 24, 2024
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Signature Not Verified

Digitally Signed By: ASWANT
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Signing Date: 25/10/2024
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