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

+ **CS(OS) 331/2021**

MOTIWALA FOUNDATION CHARITABLE TRUST.....Plaintiff

Through: Mr. Rajesh Khawre, Mr. Himanshu
Pandey and Mr. R.K. Gupta, Advs.

versus

SMT MONICA GUPTA & ORS.

.....Defendants

Through: Mr. S.S. Pandey, Mr. Abhay Kr. Jena,
Mr. Nishant Pandey and Mr. Satyam
Tripathi, Advs. for D-1 and 7
Mr. Vishal Bakshi, Ms. Kanchan
Vashishth and Mr. Sushant Singh,
Advs. for D-2 to 6

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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10.02.2025

**I.A. 15398/2022 (under Order VIII Rule 11 read with Section 151
CPC, 1908 seeking rejection of the plaint by defendant No.1)**

1. The instant application has been filed by the defendant no.1 under Order VIII Rule 11 seeking rejection of the plaint.

2. It be noted that learned counsel for the plaintiff, without prejudice to his rights and contentions, asserts that he has no objection if he is allowed to approach the NCLT, subject to continuing the interim protection granted by this Court on 04.02.2022, till his application for interim protection is decided by the Tribunal.

3. Mr. S.S. Pandey, learned counsel for defendants No.1 and 7 fairly submits that the said defendants would also have no objection, if the said



arrangement is acceded to.

4. However, he expresses his apprehension that under the guise of the interim protection, the proceedings before the NCLT may not be prolonged.

5. Mr. Vishal Bakshi, learned counsel for defendants No.2 and 6 contends that even the interim protection, which has been earlier passed by this Court should not be continued on the ground that this Court does not have the requisite jurisdiction to adjudicate on the subject matter of the instant controversy. To substantiate his contention, he places reliance on the decision of the Supreme Court in the case of *Alhar Chaman Lal Modi. Vs. DLF Universal and Ors*¹.

6. Upon considering the submissions made by the learned counsel and upon perusal of the record, the Court deems it appropriate to dispose of the instant civil suit with the following directions:-

- a. Let the plaintiff to approach the NCLT within a period of 15 days from uploading the copy of the order passed today with the necessary application for interim relief, with advance copy to the opposite parties;
- b. The defendants undertake to appear on the first date of hearing on the basis of advance copy before the NCLT;
- c. Let the application of the plaintiff for grant of interim relief may be considered with due expedition;
- d. Till the application for interim relief is considered by the NCLT, the order dated 04.02.2022 shall remain in force.

7. Needless to state that the Court has not expressed any opinion on the merits of the case or otherwise. All the rights and contentions of the parties

¹ 2005 7 SCC 791



are left open.

8. Mr. Raj Kumar Gupta, who appears for the proposed intervener, shall also be at liberty to take appropriate steps in accordance with law.

9. The application stands disposed of.

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10. In view of the order passed in I.A. 15398/2022, the instant matter, along with pending application stand disposed of.

PURUSHAINDR KUMAR KAURAV, J

FEBRUARY 10, 2025/DPA/SP

[Click here to check corrigendum, if any](#)