

Jaiveer Singh Virk vs Sir Sobha Singh & Sons Pvt Ltd & Anr on 27 September, 2019

Author: Rajiv Sahai Endlaw

Bench: Rajiv Sahai Endlaw

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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 226/2016, IA No.5848/2016 (u/O XXXIX R-1&2 CPC) & IA

No.11199/2018 (u/O XI R-12&14 CPC)

JAIVEER SINGH VIRK

..... Plaintiff

Through: Mr. Raman Kapur, Sr. Adv. with Mr.

Manish Kumar, Mr. Asav Rajan, Mr.

Varun Kapur & Mr. Amit Kumar,

Advs.

Versus

SIR SOBHA SINGH & SONS PVT LTD & ANR..... Defendants

Through: Mr. Anand Singh & Ms. Monika

Phartya, Advs. for D-1.

Ms. Nishtha Khurana, Adv. for D-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% 27.09.2019

1. This order is in pursuance to the order dated 11th July, 2019.

2. The senior counsel appearing for the plaintiff, instead of pursuing the line of argument qua which query was raised on 11th July, 2019 and as recorded in the order of that day, has contended that what the plaintiff is enforcing is a Family Settlement and on enquiry, whether a Family Settlement is applicable qua a company, places reliance on Deepa Anant Bandekar Vs. Rajaram Bandekar (Sirigao) Mines Pvt. Ltd. MANU/MH/0101/1992 against which Special Leave Petition is stated to have been dismissed in limine.

3. On enquiry, whether the plaintiff has based his case on Family Settlement or only on offer of acceptance as was argued on the last date, the senior counsel for the plaintiff though states that there is a plea of Family Settlement in the plaint but admits that the words „Family Settlement have not been used and contends that the tenor of the plaint is of the defendant being a family company.

4. Deepa Anant Bandekar supra is found to be a judgment of a Hon ble Single Judge of the High Court of Bombay in a Company Petition. On enquiry, whether an appeal to the Division Bench was preferred thereagainst, it is stated that the same has not been checked.

5. The senior counsel for the plaintiff, during his arguments has also used the words „piercing of the corporate veil . However, at least at this stage no ground for piercing the corporate veil also has been made out and for piercing a corporate veil, all the directors / shareholders would have to be made party and which has also not been done.

6. I have thus requested the senior counsel for the plaintiff to kindly look up, whether the suit, after the Companies (Second Amendment) Act, 2002 constituting the National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) and after coming into force of the Companies Act, 2013, is maintainable before this Court and whether the jurisdiction would be of NCLT or NCLAT and the jurisdiction of this Court would be barred inasmuch as it is felt that the plaintiff, instead of pursuing a wrong remedy for another long period of time merely for the reason of a wrong remedy having been invoked in instituting this suit, should not waste more time and should take appropriate remedies.

7. The senior counsel for the plaintiff states that he will look up the law.

8. The counsel for the defendant to also look up the law in this regard.

9. List on 16th October, 2019.

RAJIV SAHAI ENDLAW, J SEPTEMBER 27, 2019 „gsr ..