

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No.325 of 2017

IN THE MATTER OF:

**1. Ravi Rajnish
792, Reece Court,
Milton, Ontario,
L9T OX4, Canada
And also
Camping at 34 Kashi Enclave,
Sarnath,
Varanasi -221007**

**2. Archana Rajnish
792, Reece Court,
Milton, Ontario,
L9T OX4, Canada**

...Appellants

Vs

**1. Jain Link Pvt Ltd
J-2 Block-GP, Sector-V,
Salt Lake City,
Kolkata.**

**2. Pranav Singh
24BU,
Sanjeeva Town Duplex,
New Town,
Kolkata 700116**

**3. Sarita Singh
24BU,
Sanjeeva Town Duplex,
New Town,
Kolkata 700116**

...Respondents

Present: Mr Basant Kumar Chaudhary, Senior Advocate with Rituraj Chaudhary and Mr. Sanjay Grover, Advocate for the appellant. Mr. Viksit Arora, Advocate for Respondent No.1 and 2.

Mr Arijit Mazumdar and Mr. Shambo Nandy, Advocate for Respondent No.3-on caveat.

**ORDER
(18.10.2017)**

Heard learned counsel for the appellant. Perused the record. We have gone through the material placed on record. Learned counsel for the appellant states that the appellant had filed C.P. No.151 of 2015 claiming oppression and mismanagement in the affairs of the company and claimed that the appellants still had the shareholding and the respondent had illegally appointed directors and that the shareholding of the appellant were being ignored. It is argued that the appellants are residing in Canada and when their shares were stolen, FIR was lodged. It is claimed that in 2010 the father of the appellant No.1 had filed Company Petition against illegal appointment of directors by the respondent and the appellant had intervened. Application of the appellant for intervention was neither decided nor rejected. That, the matter abated in 2015 when the father of the appellant No.1 expired.

Learned counsel for the appellant further submitted that the shareholding of the appellants was shown in the returns of the company upto 2009 and thereafter suddenly their shares were not shown. The respondents must answer how the shares were shown upto 2009 and thereafter not shown.

Going through the material available, it is apparent that the appellants do not have in hand the shares which were being held by them. If the shares had been stolen in 2007 (as is appearing from the pleadings in para 7(g) of the appeal)

and the FIR had been lodged on 28.01.2007 and claim had been made to the Company for issuance of duplicate shares, then, there is nothing to show that till 2015 on this count any company petition or other proceedings were filed. In the petition of the father naturally the alleged loss of shares would not have been a subject matter. Appeal Para 7(1) shows appellants admitting that in 2007 itself they come to know about (what are called) illegal acts of Respondents.

The impugned order shows that the Learned NCLT pointed out from the record that the appellant No.1 had transferred his shares in favour of his mother sometime on 15.9.1997. When this is so, the NCLT has gone into the question of delay and laches and going through the impugned order it does not appear that there is any error in the view taken by the NCLT for rejecting the claim made by the appellants on the ground of delay and laches. After many many years the appellants rose to file company petition No.151/2015. The impugned order rightly allowed the Company Application No.1231 of 2015 filed by the respondent. There is no reason to entertain and admit this appeal. The appeal is rejected.

(Justice A.I.S. Cheema)
Member (Judicial)

(Balvinder Singh)
Member (Technical)

Bm/sh/nn