

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI
Company Appeal (AT) (Insolvency) No. 851 of 2020

In the matter of:

Ashok Kriplani

....Appellant

Vs.

Sri Suresh Kumar & Ors.

....Respondents

Present:

Appellant: Mr. Shailender Singh, Ms. Muskaan Garg, Advocates.

**Respondents: Ms. Amrita Sharma, Mr. Darpan K M, Advocates for R1
Mr. Pramod, Mr. GV Sudhakar, Advocates for R6
Mr. Vijay Pal Sharma, Advocate for R15
Mr. Tushar Singh, Mr. Parthasarathy Bose, Advocates for R12&16
Mr. Mudassir Hussain, Mr. Satyavikram, Advocates for Intervenor**

ORDER

(Through Virtual Mode)

18.01.2021: Notice upon Respondent No.17 has not been served. Learned counsel for the Appellant points out that I.A No. 2822 of 2020 has been filed praying for service to be effected on Respondent No.17 by way of publication as all efforts to serve Respondent No.17 on known address proved abortive and alternate address/ particulars of Respondent No.17 could not be ascertained. In the given circumstances, while we are satisfied that the service cannot be effected upon the Respondent No.17 in the ordinary course, effecting service through substituted mode is resorted to. Let notice on Respondent No.17 be served by way of publication in two daily local Newspapers having wide circulation in State of Karnataka, one in English language and another in Kannada language. The draft notice be prepared and placed by learned counsel for the Appellant together with publication charges before Registrar, NCALT within one week. After approval by the Registry, it shall be open for the Appellant to collect the approved notice for publication on its own expenses.

Contd/-.....

Pleadings are not complete. Let the same be completed within four weeks. Short written submissions not exceeding three pages supported by compilation of the relevant judgments may also be filed by the parties along with the pleadings.

Mr. Satya Vikram, Advocate submits that homebuyers of 'Dreamz Sneh Project Allottees Welfare Association' have filed an application Vide Diary No.24208/2021 seeking intervention in the appeal proceedings on identical ground as raised by the Appellant. Application is not on record. Learned counsel submits that he has cured the defects. Registry is directed to place the application on record. Learned counsel may also provide copy of the application to learned counsel for the Appellant as also to the Respondents.

Learned counsel for Respondent No.1 submits that she has filed reply-affidavit this morning. Registry is directed to place the same on record. Learned counsel for Respondent No.1 will provide copy thereof to learned counsel for Appellant.

An application has been filed vide Diary No.24447 by Respondent No.16 seeking substitution of 'Mr. Maaz Ahmed Shariff' in place of 'Mr. Riyaz Ahmed Shariff' figuring as Respondent No.16 in the appeal on the ground that the Respondent No.16 'Mr. Riyaz Ahmed Shariff' has transferred his rights by way of gift deed dated 16th January, 2013 in favour of Applicant- 'Mr. Maaz Ahmed Shariff' who has become the absolute owner of the scheduled property. Notice on the application has been given to learned counsel for the Appellant. Application is supported by copies of Power of Attorney and Gift Deed *prima facie* indicating that scheduled property has been absolutely transferred by Mr. Riyaz Ahmed Shariff in favour of Mr. Maaz Ahmed Shariff by way of Gift Deed. In the given circumstances, since Mr. Riyaz Ahmed Shariff is shown to have been divested of the title of the scheduled property, with donee stepping into his shoes, Mr. Maaz Ahmed Shariff is to be substituted as Respondent No.16 in

place of Mr. Riyaz Ahmed Shariff. We order accordingly. The application stands disposed off. Learned counsel for the Appellant to make necessary amendment in the cause title of the appeal paper book.

Mr. Parthasarathy Bose, Advocate representing newly substituted Respondent No.16 submits that he has already filed reply-affidavit.

List the appeal on 19th February, 2021.

**[Justice Bansi Lal Bhat]
Acting Chairperson**

**[Dr. Ashok Kumar Mishra]
Member (Technical)**

**[Dr. Alok Srivastava]
Member (Technical)**

AR/g