

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI
COMPANY APPEAL(AT) NO.392 OF 2017

IN THE MATTER OF:

Gireesh Kumar Sanghi & Anr .

Appellant

Vs

Ravi Sanghi & Ors

Respondents

Mr. P Nagesh, Mr Shivam Wadhwa, Ms Anju Jain, Ms Hitesh Sachan, Ms Shristi and Ms Nandita Choudhary Advocates for the Appellant.

Mr. Arun Kathpalia, Mr. Anirudh Wadhwa, Mr. Abhishek Iyer, Mr. Lakshya Kampani and Mr Kauser Husain, Advocates for Respondent.

And

IA No.2998 of 2019

in

COMPANY APPEAL(AT) NO.393 OF 2017

IN THE MATTER OF:

Gireesh Kumar Sanghi & Anr

Appellant

Vs

AGA Publications Ltd & Ors

Respondents

Mr. P Nagesh, Mr Shivam Wadhwa, Ms Anju Jain, Ms Hitesh Sachan, Ms Shristi and Ms Nandita Choudhary Advocates for the Appellant.

Mr Arun Kathpalia, Mr. Anirudh Wadhwa, Mr. Abhishek Iyer, Mr. Lakshya Kampani, Advocates for Respondent No.8-11.

Mr Y. Suryanarayana, Advocate for R2 to R7.

Mr. Gaurav Mitra and Ms Deepti Bhardwaj, Advocates for R1.

ORDER

19.02.2020- This order shall govern the disposal of IA No.2998/2019 filed by applicant/Respondent No.1, M/s AGA Publications Ltd in Company Appeal (AT) No.393 of 2017,

2. In this application the applicant prayed that NCLT did not give opportunity of being heard which is mandatory under Section 424 of the Companies Act, 2013 and also as per principle of natural justice. The applicant could not even file the counter of the company petition as well as could not file the reply of the appeal before this Tribunal. It is also prayed that some vital documents have not been called by the NCLT from the applicant company which would have thrown light on vital issues like the

amounts disbursed by the petitioners/respondents herein for the alleged allotment of shares on 1.3.1998 and 1.4.2006. In such circumstances the applicant may be permitted to file reply to the appeal alongwith supporting documents.

3. Respondent No.8 to 11 have filed the reply of the application and seriously objected the prayer on the ground that the matter is pending since 2008 firstly before Company Law Board and then NCLT, Hyderabad and now before this Appellate Tribunal. After 11 ½ years from the filing of the company petition on behalf of the company this application has been moved which is belated and misconceived and clear abuse of process of law. The applicant/Respondent No.1 is fully controlled by the appellants' family. This application is filed by the appellants themselves through Mr. S. Chidambaram, PCS who has been representing them throughout. Thus the application is malafide and filed with this object to take on record such documents which the appellant cannot file at the Appellate Stage. Hence the application is liable to be dismissed with exemplary costs.

4. Appellants have no objection in allowing the application.

5. The applicant and Respondent No.8 to 11 have filed written submissions.

6. Admittedly applicant/Respondent No.1 company is fully controlled by the appellants' family. It is also admitted fact that company petition was filed in the year 2008 before Company Law Board and thereafter the matter was transferred to NCLT Hyderabad. NCLT has allowed the petition with certain directions. Being aggrieved the appellants have filed this appeal in which the appellants have already concluded their arguments. At this stage the applicant/Respondent No.1 have moved this application through Mr. S. Chidambaram, PCS. There is nothing on record to show that the applicant company is not aware of this petition and no satisfactory reason has been shown why at this belated stage i.e. after 11 ½ years from filing the petition this application has been moved. The respondents have rightly pointed that at the Appellate Stage the appellant cannot file additional documents,

therefore, now they have moved this application through Mr. S. Chidamabaram for taking on record such additional documents which the appellant cannot file at this stage.

6. We are of the view that the application is belated as well as malafide. In such circumstances the IA No.2998/2019 is hereby dismissed with costs of Rs.50000/- in the name of Pay & Accounts Officer, Ministry of Corporate Affairs to be deposited with the Registrar of this Tribunal within a week.

(Justice Jarat Kumar Jain)
Member (Judicial)

(Mr. Balvinder Singh)
Member (Technical)

(Dr. Ashok Kumar Mishra)
Member (Technical)

Bm/nn