

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 172 of 2018

IN THE MATTER OF:

Mrs. Aruna Oswal

...Appellant

Vs.

Mr. Pankaj Oswal and Others

...Respondents

Present: For Appellant: - Mr. Anand Chibbar, Senior Advocate with Mr. Abhishek Kumar and Ms. Sharmistha Ghosh, Advocates.

**For Respondents:- Mr. Mayank Mishra and Mr. Raghav Sabharwal, Advocates for 1st Respondent.
Mr. Alok Dhir, Advocate for 3rd Respondent.**

O R D E R

29.05.2018- The Appellant has challenged the order dated 21st May, 2018 passed by the National Company Law Tribunal (hereinafter referred to as "Tribunal"), Chandigarh Bench, Chandigarh, whereby and whereunder the Tribunal directed the Appellant to file reply to the main petition.

2. Learned counsel appearing on behalf of the Appellant submits that the Appellant who were the 1st and 16th Respondents have already raised objection with regard to the maintainability of the petition and requested to decide the preliminary issue.

3. Mr. Mayank Mishra, Advocate appearing on behalf of the 1st Respondent (petitioner) submits that the preliminary issue has been decided by the Tribunal on 16th March, 2018.

Contd/-.....

4. From bare reading of the order dated 16th March, 2018, we find that the question of maintainability has not been decided by the Tribunal and only *prima facie* view has been expressed.

5. Mr. Alok Dhir, learned counsel appearing on behalf of the 3rd Respondent submits that the 1st Respondent has 0.03% equity, therefore, his petition is not maintainable.

6. Having heard learned counsel for the parties, while we are not inclined to interfere with the substantive part of the impugned order dated 21st May, 2018 and allow the Appellant to file reply to the main petition subject to their rights and contentions and objection relating to maintainability of the petition. The Tribunal before deciding the main issue raised in the petition will decide the question whether the 1st Respondent (Petitioner) is eligible in terms of Section 244 of the Companies Act, 2013 or not and whether the petition at the instance of 1st Respondent (Petitioner) is maintainable after hearing the parties uninfluenced by the observations made on 16th March, 2018. The appeal stands disposed of with aforesaid observations. No cost.

(Justice S.J. Mukhopadhyaya)
Chairperson

(Justice Bansi Lal Bhat)
Member(Judicial)

Ar/g