



\$~CP-3

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CO.A(SB) 68/2014**

ANJALI JAIN

..... Appellant

Through Mr.K.P.S.Kohli, Ms.Sharmistha
Ghosh and Mr.Mahipal Singh, Advs.

versus

M/S SATYAM SECURITIES PVT. LTD. & ORS..... Respondent

Through Mr.Praveen Kumar Mittal and
Ms.Chhavi Gosain, Advs. for R-1 & 4
Mr.Harshit Agarwal and Ms.Nandini Naggar,
Advs. for R-2 & 3
Ms.Ranjana Roy Gowai, Mr.Krishna Keshav and
Ms.Prachi, Advs. for R-5
Mr.Amulya Dhingra, Adv. for the applicant

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

02.08.2019

%

CA 31/2019

1. This application is filed on behalf of the applicant Surinder Kalra seeking impleadment in the present appeal. The case of the applicant is that by the impugned order dated 25.7.2014 and 5.9.2014 the Company Law Board was pleased to cancel and set aside the Sale Deed dated 6.6.2007 executed by the respondent company in favour of Ms.Monika Goel, Ms..Anjali Jain (appellant) and Shri Deepak Jain in respect of the property DP-184 Pitampura, Delhi. It is the case of the applicant that the owner Ms.Monika Goyal, Ms.Anjali Jain and Mr.Deepak Jain based on their title derived from the sale deed dated 6.6.2007 had agreed to sell the suit

CO.A(SB) 68/2014

Page 1



property to the applicant for a total sale consideration of Rs.1,44,01,000/- and a sum of Rs.15 lacs was paid as earnest money. It was also agreed in the said agreement that the balance sum of Rs.1,29,01,000/- shall be paid on 24.3.2008 or upon the final outcome of decision of the Company Law Board. It further pleaded that sellers, some of whom are parties before this court did not keep the applicant informed of the developments in the legal proceedings before CLB. It is only recently that the applicant came to know about pendency of this appeal. It is pleaded that the order of the Company Law Board and the settlement arrived at between the parties is illegal and gravely affects the right of the applicant.

2. The applicant also states that he has filed a suit seeking specific performance of the agreement to sell against the said Ms.Monika Goel, Ms..Anjali Jain and Mr.Deepak Jain and the company also. In the said suit he has also sought a decree of declaration that the said judgment of CLB dated 5.9.2014 is null and void.

3. Learned counsel for the respondent has opposed the present application. Under section 10F of the Companies Act 1956 an appeal lies against a decision of the Company Law Board within 60 days from the date of communication of the decision when a question of law has arisen out of the such order. The proviso provides another period of 60 days in case sufficient cause is shown for the delay in filing of the appeal. Hence, the appeal has to be filed at best within 120 days from the date of communication of the order in question. In the present case the applicant has woken up five years after the impugned order was passed on 5.9.2014. The fact that he has been sleeping over his rights itself shows that no permission



can be granted to intervene/implead as a party in the appeal.

4. I may note that the applicant was not a party before CLB. He was fully aware of the pendency of the proceedings before the CLB as is clearly apparent from the terms of the Agreement to Sell which he relies upon which was entered into with Ms.Monika Goel, Ms.Anju Jain and Mr.Deepak Jain. Having not being vigilant before the CLB, he cannot now be permitted to, at this stage, seek his impleadment in the present proceedings.

5. Further the appellant has woken up five years after the said order was passed and has chosen to file this application. He seeks to challenge the said order in a circuitous manner. This is only an attempt to overcome the limitation period.

6. I may also note that under section 10F of the Companies Act an appeal lies only on a question of law. There is no question of law stated by the applicant which has to be gone into by this court to warrant his being impleaded as a party.

7. In any case I am informed the applicant has already initiated proceedings for specific performance of the said agreement to sell before appropriate court. He has also initiated criminal proceedings. In the light of this factual background there are no grounds to permit the applicant intervention in the present proceedings.

8. There is no merit in this application. Application is dismissed.

9. The observations made herein are only for the purpose of disposal of this application and will not prejudice the applicant in any proceedings that he has initiated for the land in question.



CO.A(SB) 68/2014

At request of learned counsel for the appellant, adjourned to
31.10.2019.

JAYANT NATH, J

AUGUST 02, 2019

n

CO.A(SB) 68/2014

Page 4