

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI**

Company Appeal (AT) (Ins.) No. 958 of 2022

IN THE MATTER OF:

H S Oberoi Buildtech Pvt. Ltd.

...Appellant

Versus

Inderjit Singh & Anr.

...Respondents

Present:

**For Appellant: Mr. Pawan Kr. Mittal & Mr. Akhilesh L. Kamle,
Advocates**

For Respondent: Mr. Inderjit Singh, party in person

With

Company Appeal (AT) (Ins.) No. 962 of 2022

IN THE MATTER OF:

H S Oberoi Buildtech Pvt. Ltd.

...Appellant

Versus

Rakesh Duggal

...Respondent

Present:

**For Appellant: Mr. Pawan Kr. Mittal & Mr. Akhilesh L. Kamle,
Advocates**

For Respondent: Mr. Bhanu Gupta, Mr. Akshat Singh, Advocates

With

Company Appeal (AT) (Ins.) No. 963 of 2022

IN THE MATTER OF:

H S Oberoi Buildtech Pvt. Ltd.

...Appellant

Versus

Sudha Rani Reddy

...Respondent

Present:

**For Appellant: Mr. Pawan Kr. Mittal & Mr. Akhilesh L. Kamle,
Advocates**

For Respondent: Mr. Pranjal Saran, Mr. Dacchita Shahi, Advocates

ORDER

Per: Justice Rakesh Kumar Jain: (Oral)

18.05.2023: This order shall dispose of three appeals bearing CA (AT) (Ins) No. 958 of 2022 'H S Oberoi Buildtech Pvt. Ltd. Vs. Inderjit Singh & Anr.', CA (AT) (Ins) No. 962 of 2022 'H S Oberoi Buildtech Pvt. Ltd. Vs. Rakesh Duggal' & CA (AT) (Ins) No. 963 of 2022 'H S Oberoi Buildtech Pvt. Ltd. Vs. Sudha Rani Reddy'.

2. Shorn of unnecessary details, the first appeal i.e. CA (AT) (Ins) No. 958 of 2022 has arisen from the order dated 24.05.2022 passed in I.A. No. 609 of 2022, second appeal i.e. CA (AT) (Ins) No. 962 of 2022 has arisen from the same order dated 24.05.2022 passed in I.A. No. 1009 of 2022 and the third appeal i.e. CA (AT) (Ins) No. 963 of 2022 has also arisen from the same order dated 24.05.2022 passed in I.A. No. 991 of 2022.

3. Counsel for the Appellant has submitted that the aforesaid three applications bearing I.A. No. 609 of 2022, 1009 of 2022 and 991 of 2022 filed by the respective Applicants came up for hearing on 13.04.2022 but without issuing notice to the Appellant who is the Successful Resolution Applicant, the order was reserved and later the same was pronounced on 24.05.2022.

4. It is thus submitted that the order dated 24.05.2022 is against the principle of natural justice i.e. Audi Alteram Parterm.

5. In appeal No. 958 of 2022, Inderjit Singh has put in appearance as party in person whereas in appeal No. 962 and 963 of 2022 Bhanu Gupta and Pranjal Saran has put in appearance on behalf of the Respondents.

6. We have heard Counsel for the parties and perused the record with their able assistance.

7. First of all, we would like to refer to the order dated 13.04.2022 by which the orders in the above three applications were reserved. The order passed in all the three applications is reproduced as under:-

“I.A. No. 609 of 2022

Heard. Reserved for orders.

The Ld. Counsel is directed to file written notes containing two pages each within two days.

I.A. No. 991 of 2022

Heard. Reserved for orders.

The Ld. Counsel is directed to file written notes containing two pages each within two days clearly indicated therein that the Applicant will comply with terms and conditions of the Resolution plan.

I.A. No. 1009 of 2022

Heard. Reserved for orders.

The Ld. Counsel is directed to file written notes containing two pages each within two days.”

8. Counsel for the Respondents could not deny the fact that notice was not issued to the Appellant by the Tribunal while reserving the orders in the aforesaid three applications, therefore, it is well established that the Respondent has been condemned without giving any opportunity of hearing by the Tribunal. In such scenario, it would be relevant to refer to a decision of the Hon’ble Supreme Court in the case of ‘State of Orissa vs Binapani Dei, 1967 AIR 1269’, in which it has been held that not only the judicial order but also the administrative order should be passed by following the principle of natural justice.

9. In the present case, opportunity of hearing is conspicuous by its absence, therefore, it is a fit case in which the impugned order deserves to be

set aside and the matter deserves to be remanded back to the Tribunal to once again hear the parties and take a decision in accordance with law by passing a speaking order.

10. Consequently, all the three appeals are allowed and the order dated 24.05.2022 is set aside. The aforesaid three applications are remanded back to the Tribunal to decide it again by passing a speaking order after giving an opportunity of hearing to the Respondent, in all the aforesaid three applications, much less the present Appellant who is the SRA.

11. The Parties are directed to appear before the Tribunal on **02nd June, 2023.**

12. The Tribunal is further directed to decide these applications as early as possible but not beyond the end of the Month of July, 2023.

The registry is directed to send a copy of this order to the concerned Tribunal.

[Justice Rakesh Kumar Jain]
Member (Judicial)

[Mr. Naresh Salecha]
Member (Technical)

Sheetal/RR