

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

Item No. 8
173/241-242(PB)/2019

IN THE MATTER OF:

Emaar Holding II

.... Applicant/petitioners

v.

Emaar MGF Land Ltd. & Ors.

.... Respondent

Order under Section 241-242

Order delivered on 28.10.2020

CORAM:

SH. B.S.V. PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the applicant

Mr. SN Mukherjee, Senior Advocate with Mr. Dheeraj Nair, Mr. Kumar Kislay and Mr. Angad Baxi, Advs.

For the respondent

Mr. Kunal Sinha, Adv for Respondent No.1
Mr. K. Datta with Mr. Kunal Mimani and Ms. Mehak Khurana, Advs. for R-9
Dr. U K Chaudhary, Sr. Adv. with Mr. Jayant Mehta, Mr. Gaurav Mitra, Ms. Manisha Chaudhary, Mr. Mansumyer Singh, Mr. Aditya Bisht, Ms. Shriya Raychaudhuri, Mr. Pranay Chitale, Advs for R-2 to 4 & 8

ORDER

It is an application filed by the Petitioner stating that R2 [MGF] obtained an order from the Director Town & Country Planning, Haryana for transfer of development rights from R1 to R2 through an order dated 11.03.2019 by showing an order of this Bench dated 08.01.2018, the fact of the matter is, the transfer which R2 obtained to the land of 3.65 Acres located in a village Gatta, Gurugram, is not part of the

Schedule annexed to the scheme order passed by NCLT on the aforesaid date.

2. It is the request of R2 in the letter dated 08.02.2018 seeking for substituting MGF developments Limited [R2] in the place of EMAAR-MGF Lands Limited [R1] in Licence No.56 of 2008 for the land admeasuring 3.65 Acres located at Village Gatta, Gurugram based on the order of this Tribunal dated 08.01.2018.

3. The petitioner counsel has further submitted that this impugned land of 3.65 Acres is not showing in the Schedule annexed to the Demerger Order passed by this Bench, therefore the Petitioner has sought various reliefs inter-alia, a relief not to create third party rights over the aforesaid asset mentioned in this application.

4. The answer of the R2 counsel is, that this land originally belongs to M/s. ACTIVE and M/s. Sidhivinayak, later on transferred to M/s. KAYO, therefore no relief could be passed in this application.

5. As to this aspect, the Petitioner counsel has referred a letter written by R2 dated 08.02.2018, saying as follows:-

“1) Land Parcel of 3.65 acres (License no. 56 of 2008 dated 19.03.2008) was to be developed by Emaar MGF.



2) As informed earlier, the scheme of Demerger ("Scheme") (copy enclosed herewith), was filed before the National Company Law Tribunal (NCLT) whereby development rights on land parcels under the said license moved to M/s MGF Developments Limited.

3) The Scheme has now been approved by the Hon'ble NCLT vide its order dated January 08, 2018 (Copy of the order enclosed) and is effective from 30th September 2015."

6. The Respondent counsel has stated that this property has not been included in the Schedule annexed to the scheme order passed by this Bench, whereas the letter shown as written by R2 has sought transfer of development rights to itself from R1 based on demerger order. These two versions of R2 being inconsistent to each other, and R2 having already obtained a license in favor of it on a statement that right has been vested to R2 through demerger order, we hereby direct R2 not to create any third party rights relating to 3.65 Acres until further orders.

7. In the meanwhile, the Respondent side is hereby directed to place their reply as well as material papers supporting their stand by next date of hearing.



8. List the matter for hearing on **09.11.2020**.

Sd/-

(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT

Sd/-

(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)

28.10.2020
Aarti Makker