

High Court rules that issue related to disputes of shareholders to be tried before NCLT and not before Civil Court even though the dispute pertains to the residential flat

Case: Jaiveer Singh Virk v. Sir Sobha Singh & Sons Pvt. Ltd.

Appellant: 4th generation descendant

Respondent: A family-owned private Company incorporated in Delhi by Sobha Singh

Facts: Mr. Sobha Singh has built Delhi's first housing complex in the name of Sujan Singh Park. Its shareholders were the family members of the Builder. The complex had 84 residential flats and descendants of Sobha Singh upto fourth generation would receive each flat subject to seniority. A seniority-wise list of 23 great-grand-children was made on basis of which flat will be allotted by Respondent as and when a flat becomes vacant. This was duly approved by family settlement and Board Resolution.

The Appellant was on 18th number and this practice was duly followed until 17th grandchildren. Instead, the 18th being given the flat, it was allotted to 19th one and when another flat became vacant, it was proposed to sell it. The Appellant on the strength of his right as per the Board Resolution, filed writ seeking possession of the flat, injunction to Respondent Company to allot the said flat and cancellation of allotment made out-of-run as well as damages.

The Single Judge Bench held that issues were to be raised before the specialized tribunal i.e., National Company Law Tribunal. The Appellant being aggrieved by order of Single Judge, approached High Court.

The High Court ruled that a corporation may modify its choices at any time as per the law and if it outside the law, the concerned shareholders can bring the matter to the relevant forum. The concern of the shareholder over his right mentioned in the Board Resolution is a management issue and shall be brought before the proper body i.e., NCLT under Company Law, 2013 as NCLT has jurisdiction over issues pertaining to shareholder disputes relating to management of the Company. It has nothing that can be enforced in a civil court.

Judgement: Issue related to disputes of shareholders to be tried before NCLT and not before Civil Court