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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CO.PET. 704/2014**

SH. AMARPREET SINGH OBEROI & ORS. .... Petitioners

Through:

versus

M/S A. N. BUILDWELL PVT. LTD. .... Respondent

Through: Mr. Satya Prakash Yadav, Adv. for  
Applicant. (M: 9711046343)

Mr. Arjun Nanda, Adv. for Applicant.  
(M: 9811558580)

Mr. Laksh Khanna and Ms. Smriti  
Maheshwari and Mr. Alok Saxena,  
Advs. for Applicant. (M:  
9910900059)

Mr. Vikrant Pachnanda and Mr.  
Mukul Katyal, Advs. for Propounder  
No. 2. (M: 9871138313)

Mr Kunal Sharma and Mr Subhendu  
Bhattacharya, Advs. for OL. (M:  
80540 44818)

C3

AND

+

**CO.PET. 6/2019**

SUNIL GANDHI & ANR. .... Petitioners

Through: Mr. Abhimanyu Bhandari, Mr.  
Aarush Bhatia & Shubhankar Sen,  
Advs. (M: 9818496044)

versus

A.N. BUILDWELL PRIVATE LIMITED .... Respondent

Through: Ms. Nidhi Raman CGSC, Mr. Zubin  
Singh Debarchan De  
Advs.(M:9891088658)

Mr. Rajive Bhalla, Sr Adv with Mr.  
Anchita Nayyar, Adv. for Propounder  
No. 1. (M: 9811190315)

Mr. Satya Prakash Yadav, Adv. for



Applicant.

Mr. Gautam Narayan and Mr. Vidur Mohan, Advs. for Applicant (M: 9818545997)

Mr. Prashant Bhushan, Mr. Indresh Upadhyay, Mr. Saurabh Kumar, Ksheetej Rajput & Mr. Ajay Shukla, Advs. (M: 8010041010)

Mr Shlok Chandra, Mr. Shubhanshu Mishra and Mr. Saksham Jain, Advs. for Alpha Corp. (M: 9999670588)

Mr Kunal Sharma and Mr Subhendu Bhattacharya, Advs. for OL.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**ORDER**

**% 12.10.2023**

1. This hearing has been done through hybrid mode.
2. Two projects of Respondent Company - M/s A.N. Buildwell Private Limited (*Company in liqd.*) i.e. Spire Wood and Spire Edge are subject matters of the present case. Spire Wood is a residential project and Spire Edge is a commercial project.
3. The three promoters of the Company (*in liqd.*) are Mr. Sunil Gandhi, Mr. Surendra Kumar Hooda and Mr. Ashish Bhalla. There are various investigations which are currently underway against them, by the Delhi Police Economic Offences Wing (EOW). Chargesheets have been filed against these promoters. All the three promoters either have been arrested and/or are currently under bail. Two of the promoters i.e., Mr. Gandhi and Mr. Bhalla had proposed a revival scheme which was considered and approved by the Court on 17th February, 2020.



**CO.APPL.683/2023 in CO.PET. 6/2019**

4. **CO.APPL.683/2023** has been filed by the Applicant - Ms. Renuka Kulkarni seeking recall of the revival scheme which was sanctioned by this Court on 17th February, 2020.

5. In terms of the previous order dated 26th September, 2023 arguments have been heard on **CO.APPL.683/2023**. It is submitted that the revival scheme ought to be either recalled or ought to be permitted to be implemented with the modifications as approved by all the stakeholders.

6. Mr. Prashant Bhushan, Id. Counsel appearing for the Applicant submits that in the said scheme the modifications which were approved by the allottees is not reflected and an appeal being **CO.APP. 7/2021** along with connected appeals was filed before the Id. Division Bench. Vide order dated 28th August, 2023, the Id. Division Bench has directed that the Company Court shall consider the application.

7. It is, further, submitted by Mr. Prashant Bhushan, Id. Counsel that one of the modifications in the scheme for revival was that a sum of Rs.20 crores for repairs and restorations of Towers B, C and D of the Spire Edge project was to be paid by the two propounders and they were to indemnify the Allottees from all liabilities.

8. On behalf of the propounders, Mr. Bhalla, Id. Sr. Counsel has appeared and made submissions. According to him, Spire Edge project has Towers A to F. Tower A has been abandoned, Towers B, C and D have been constructed and there are a total of 1091 Allottees in the said Towers. Possession was delivered in 2011 itself to 1040 Allottees and documents/registered lease deeds were executed for 732 Allottees. It is further submitted that even the assured returns and the shortfall in lease



rentals were undertaken to be paid by the propounders. The entire obligations on the propounders have already been fulfilled and a sum of Rs.24 crores lies in an escrow account.

9. It is submitted that, in terms of the revival scheme sanctioned by the Court, the *Allottees* had suggested that M/s SELFC (Spire Edge Maintenance and Lease Facilitation Limited) was to be the entity which was to manage, lease, renovate and put the Towers B,C and D to use. However, *interse* disputes arose among the management of the said entity. Ld. Counsel further submits that insofar as Spire Wood is concerned 70% of the structure is complete and Alpha Corp Development Pvt. Ltd. was the company which was selected by the buyers for completing of the project itself. The joint development agreement in favour of Alpha Corp Development Pvt. Ltd., has also been executed.

10. Ld. Counsel submits that the said Spire Wood project consists of 12 towers which includes 630 flats. There are a total of 517 allottees and total amount realised till date is Rs.200 plus crores. Balance of approximately Rs.130 crores is to be recovered and there is an inventory worth more than Rs.200 crores. Thus, there is a possibility of this Spire Wood project become viable for completion. However, Alpha Corp Development Pvt. Ltd. which is suggested by the allottees has failed to take any steps in this regard.

11. As per the order dated 17th February, 2020, the Court had appointed a Commissioner for supervising the entire scheme. As per the report filed by the court appointed Commissioner, after the execution of the joint development agreement more than three years have passed and the project has not started. The relevant portions of the application filed by the Court Appointed Commissioner (CAC) in respect of the Spire Wood project is set



out below:

2. The revival scheme also pertained to the project "Spire Wood" at Gurugram. For development of the Spire Wood project, a joint Development Agreement (IDA) was executed between Sunil Gandhi (for himself) and S.K. Hooda (AR of Mis Schieicher Intec Pvt Ltd.) (the propounders) and Alpha Corp. (S W New Developers) represented by its CEO Santosh Aggarwal on 09.02.2021. The formal JDA was executed in March, 2021. The JDA incorporated comprehensive terms and conditions agreed to among the parties for development of Spire Wood project.

3. ' Bhoomipoojan' was conducted by Alpha Corp. on 10.10.2021. It was assured at the time of ' Bhoomipoojan' that the necessary approvals/ permissions shall be obtained within 3 months and construction would start thereafter.

4. Physical possession of the movable and immovable property along with keys of the site office of Spire Wood was handed over to Alpha Corp. on 04.03.2022. Handing Over Memo was prepared on that day.

5. Despite expiry of more than 3 years, the construction at Spire Wood project, Sector 103, Gurugram (Haryana) has not started. Alpha Corp. or its CEO has not furnished any status report regarding the license renewals, approvals, permissions and clearance from DTCP (Chandigarh ) and other government authorities to resume the construction of the project.

6. On 22.05.2022, Sunil Gandhi, propounder sent an email to Santosh Aggarwal, CEO of Alpha Corp. to furnish status report on the progress of renewal of licenses, sanction plan and other permissions and the time-lines by which construction work was likely to start (Annexure A).

7. Vide email dated 22.05.2022 (Annexure B), Santosh Aggarwal categorically stated that he was not supposed to submit the status report of the project or update the CAC in any regard. He further stated that he was not



*supposed to attend any meeting of AN Buildwell with CAC.*

*8. The propounders were asked to coordinate with Santosh Aggarwal, CEO Alpha Corp and to get status rep011 of the various activities undertaken by it. No official information in writing has been made available to them also despite their writing several emails and verbal communication.*

*9. The CAC has received numerous complaints from the investors for inordinate delay in the commencement of the construction and development of the project. Spire Wood Resident Association (Regd.) (SWRA) has also made several representations before CAC highlighting their grievances and inordinate delay in the implementation of the revival scheme (Annexure C).*

*10. CAC has also received complaints from the investors about the problems of waterlogging in the basement of Towers 8 - 12 endangering the structure of existing towers. Before handing over the possession of the premises, the propounders had undertaken for de-watering and some progress had been made. However, after the possession was taken over by Alpha Corp .. it was its responsibility to take care of waterlogging. Alpha Corp. has not updated the CAC about the waterlogging problem.*

*11. No application except one was got forwarded from CAC either by the propounders or Alpha Corp. to be fi led to various government agencies for obtaining necessary approvals, renewals, permissions and licenses.*

*12. In the absence of any update about the progress of the implementation of revival scheme qua the Spire Wood project, no effective steps can be taken by the CAC.*

12. Insofar as the Spire Wood project is concerned, clearly, as far as this Court is concerned the impression that has been conveyed is that nothing has



moved after the scheme was sanctioned. The main reason appears to be that Alpha Corp Development Pvt. Ltd. has not taken any steps in respect of Spire Wood.

13. Mr. Shlok Chandra, Id. Counsel appearing for Alpha Corp Development Pvt. Ltd. submits that he is today in some personal difficulty as he is travelling out of station. The Court is not inclined to grant an adjournment, however, since it the Id. Counsel's personal difficulty, the matter shall be specifically listed for submissions on behalf of Alpha Corp so that further orders can be passed.

14. Accordingly, list this matter on 2nd November, 2023 for submissions on behalf of Alpha Corp Development Pvt. Ltd.

15. It is made clear that at this stage, subject to what Alpha Corp Development Pvt. Ltd. may submit, the Court is inclined to recall the scheme insofar as Spire Wood is concerned and direct that the entire project be auctioned by the OL on 'as is where is' basis after obtaining the valuation.

16. Insofar as Spire Edge is concerned, detailed report has also been filed by the CAC. Further submissions on this project would be heard on the next date of hearing.

17. At this stage, it is brought to the notice of the Court that the third shareholder/promoter - Mr. Ashish Bhalla would also be required to be heard in this matter inasmuch as he is also responsible for the current condition of the investors, since he had an active role in the company while the company was carrying out its business. Accordingly, it is directed that Mr. Ashish Bhalla [M: 9810176407] shall remain present in Court on the next date of hearing.



18. Registry to issue a copy of this order to Mr. Bhalla.
19. In the meantime, Id. Counsel for the OL shall consider as to whether some preliminary valuation report could be obtained insofar as Spire Wood project is concerned on an urgent basis.
20. List on 2nd November, 2023 on the top of Board
21. This shall be treated as a part-heard matter.

**PRATHIBA M. SINGH, J.**

**OCTOBER 12, 2023**

*dj/kt*