NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT – I)

C.A. No. 267 of 2025
In
C.P. No. 77/CHD/PB/2025

[Application under Sections 244 of the Companies Act, 2013 and Rules made thereunder for waiver of requirement specified in clause (a) of Sec. 244 (1) of the Companies Act, 2013]

C.A. No. 267 of 2025

Sukhdev Singh, S/o Sh. Tinderpal Singh,
R/o House No. 47/7, Block-A, Sukhdev Nagar,
Bhamian Road, Ludhiana, Punjab, India.
DIN No.: 09708635
E-mail ID: winklechawla@gmail.com
Phone No.: 9855821173

...PETITIONER

VERSUS

1. WOODEN HEIGHTS DEVELOPERS PRIVATE LIMITED
Registered Office: Site 1, Preet City, Sector-86, Mohali,
Punjab–140308
CIN: U70109PB2022PTC056685
Through its Directors
E-mail ID: woodlandheights01@gmail.com

...RESPONDENT NO. 1

2. NAUSHAD WATS
S/o Hakam Wats
R/o House No. 61, Sandwoods Opulencia, Sector-110, Mohali,
Punjab, India
DIN: 09708636
Promoter Director and Shareholder

E-mail ID: naushadwats@gmail.com

...RESPONDENT NO. 2

3. AMAN WATS
S/o Mr. Naushad Wats
R/o House No. 61, Sandwoods Opulencia, Sector-110, Mohali, Punjab, India
DIN: 09542367
E-mail ID: amanraiwatts@gmail.com

...RESPONDENT NO. 3

4. SAGAR WATS
S/o Mr. Naushad Wats
R/o House No. 61, Sandwoods Opulencia, Sector-110, Mohali, Punjab, India
DIN: 07334952
E-mail ID: gnrdevelopers01@gmail.com

...RESPONDENT NO. 4

5. ALKA WATS
W/o Mr. Naushad Wats
R/o House No. 61, Sandwoods Opulencia, Sector-110, Mohali, Punjab, India
DIN: 07543436
E-mail ID: rai.alka70@gmail.com

...RESPONDENT NO. 5

6. GNR URBAN DEVELOPERS PVT. LTD.
Registered Office: Site 1, Preet City, Sector-86, Mohali, Punjab–140308
CIN: U58100PB2024PTC062223
Through its Directors

E-mail ID: rai.alka70@gmail.com

...RESPONDENT NO. 6

7. GNR DEVELOPERS PVT. LTD.
Registered Office: D-147, FF, Flat No. 102, KH No. 28/18/1, 2/19/1/2, Palm Kunj, Palam Extension,
Near PUMA Showroom, New Delhi–110045
CIN: U45309DL2016PTC303078
Through its Directors
E-mail ID: gnrdevelopers01@gmail.com

...RESPONDENT NO. 7

8. VIRENDER SINGH
Registered Office: Site 1, Preet City, Sector-86, Mohali, Punjab–140308
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Through its Directors
E-mail ID: woodlandheights01@gmail.com

...RESPONDENT NO. 8

9. SURAJ BHAN JINDAL
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CIN: U70109PB2022PTC056685
Through its Directors
E-mail ID: woodlandheights01@gmail.com

...RESPONDENT NO. 9

10. AVTAR SINGH
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Through its Directors
E-mail ID: woodlandheights01@gmail.com

...RESPONDENT NO. 10

11. PARVEEN KUMAR SINGLA
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Through its Directors
E-mail ID: woodlandheights01@gmail.com

...RESPONDENT NO. 11

12. ASHOK KUMAR
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Through its Directors
E-mail ID: woodlandheights01@gmail.com

...RESPONDENT NO. 12

13. SHASHI SHARMA
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Through its Directors
E-mail ID: woodlandheights01@gmail.com

...RESPONDENT NO. 13

14. MANU YADAV
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E-mail ID: woodlandheights01@gmail.com

...RESPONDENT NO. 14

15. ARUN KUMAR
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CIN: U70109PB2022PTC056685
Through its Directors
E-mail ID: woodlandheights01@gmail.com

...RESPONDENT NO. 15

16. MOHAMMAD SHEHZAD
Registered Office: Site 1, Preet City, Sector-86, Mohali, Punjab–140308
CIN: U70109PB2022PTC056685
Through its Directors
E-mail ID: woodlandheights01@gmail.com

...RESPONDENT NO. 16

17. REGISTRAR OF COMPANIES, PUNJAB & CHANDIGARH
1st Floor, Corporate Bhawan, Plot No. 4-B, Sector 27-B, Chandigarh–160019
Phone No.: 0172-2639475
E-mail ID: roc.chandigarh@mca.gov.in

...RESPONDENT NO. 17

<u>IN THE MATTER OF:</u>

Sukhdev Singh

....Petitioner

Vs.

Wooden Heights Developers Pvt. Ltd.

....Respondent

Order delivered on: 20.08.2026

<u>CORAM:</u> **MR. KHETRABASI BISWAL, HON'BLE MEMBER (JUDICIAL)**
MR. SHISHIR AGARWAL, HON'BLE MEMBER (TECHNICAL)

PRESENT:-

For the Petitioner in main CP & Applicant in CA No. 267/2025	**:**	Mr. G.S. Sarin, PCS
For Respondent Nos. 1 and 2	**:**	Mr. Aalok Jagga, Advocate Mr. Sahil Lohan, Advocate Mr. Aryaman Jagga, Advocate
For Respondent Nos. 3 to 7	**:**	Mr. Deepak Galhotra, Advocate
For Resp. Nos. 8 to 13 and 15	**:**	Mr. Yaseen Sethi, Advocate

ORDER

The Applicant has filed C.A. No. 267 of 2025, in C.P. No. 77/CHD/PB/2025, under the proviso to Section 244(1) of the Companies Act, 2013 ("the Act"), against Respondent No. 1, M/s Wooden Heights Developers Private Limited, and its directors, shareholders and other connected respondents, seeking inter alia, the waiver of the eligibility requirements prescribed under Section 244(1)(a) of the Act, to enable him to maintain the substantive Company Petition filed under Sections 241 and 242 of the Act.

BRIEF FACTS

2. The brief of the case as stated by the Applicant is summarised as follows.

(i) Respondent No. 1 was incorporated on 19.08.2022, with its registered office at Group Housing Site No. 1, Preet City, Sector 86, Mohali. The Applicant and Respondent No. 2, Mr. Naushad Wats, were its first directors. Of the initial 10,000 equity shares, 8,000 shares (80%) were allotted to the Applicant, and 2,000 shares (20%) to Respondent No.

(ii) A current account bearing No. 5282983058 was opened with the Central Bank of India, Sector 70, Mohali, for the Company's operations. Respondent No. 1 was incorporated to carry on real-estate development and was to execute the residential project "Woodland Heights" (formerly "Shaurya Ananda") at Preet City, Sector 86, Mohali.

(iii) On examining the Central Bank account in December 2024, the Applicant discovered transfers to GNR Developers Private Limited and GNR Urban Developers Private Limited, entities associated with Respondent Nos. 3 to 5 and Respondent No. 2's family, allegedly without Board approval or commercial justification, and caused the account to be frozen.

(iv) Following assurances from Respondent No. 2 in mid-December 2024, and after the Applicant's Digital Signature Certificate ("DSC") was made available to Respondent No. 2 for Company work, a resolution dated 27.12.2024 signed by both directors revoked the freezing instructions. By WhatsApp message dated 19.02.2025, the Applicant cautioned Respondent No. 2 against misuse of the DSC and stated that any resolution altering the bank operating instructions should be treated as void.

(v) On 27.02.2025, a sum of ₹9 lakh was credited to the Company's account from a source attributable to Respondent No. 2 and debited back to him on the same date, constituting a circular transaction designed to create an artificial appearance of consideration. On 28.02.2025, resolutions were uploaded on the MCA portal recording two Board meetings, at 10:00 a.m. and 6:00 p.m., appointing Respondent No. 3 as an additional director and allotting 90,000 equity shares exclusively to Respondent No. 2 respectively, on the asserted ground that the Applicant had declined his proportionate entitlement.

(vi) The Applicant denies receipt of any notice, offer letter or rights communication and denies attending either meeting, relying on an Uber travel record placing him in Ludhiana at approximately 9:40 a.m. and a CNG purchase receipt near DMC Hospital, Ludhiana, at approximately 5:21 p.m. on 28.02.2025. He further points to notarial attestations on Annexures R-15 to R-21, all dated 16.07.2025, to allege that the underlying documents were created post facto. As a result of the allotment, Respondent No. 2's holding rose to 92,000 shares while the Applicant's shareholding was diluted from 80% to 8%.

(vii) The Applicant addressed emails dated 08.03.2025 and 10.03.2025 objecting to the unauthorised transactions and misuse of his DSC, and on 15.03.2025 demanded return of his DSC and inspection of records. On 17.03.2025, he alleges that he was denied access to the Company's records and turned away from its office at Sector 86, Mohali.

(viii) The Respondent No. 2 transferred 100 shares, in lots of ten, to ten individuals (impleaded as respondents) without a valid Board meeting or compliance with statutory requirements, thereby increasing the membership of Respondent No. 1 from two to twelve and defeating the alternative eligibility criterion of one-tenth of the members under Section 244(1)(a).

(ix) The Applicant complained to the Central Bank of India and the police in May 2025, and states that the bank confirmed the freeze on 02.05.2025. He alleges that Respondent No. 2 nonetheless opened a fresh current account bearing No. 7750842812 with Kotak Mahindra Bank, Sector 70, Mohali, without Board authority, and objected by email dated 20.07.2025.

(x) The Applicant lodged a complaint with the Registrar of Companies, Punjab and Chandigarh, on 28.07.2025 alleging the illegal allotment, absence of notice, non-receipt of a rights offer, illegal appointment of Respondent No. 3 and misuse of his DSC, and on 12.08.2025 separately objected to Respondent No. 3's appointment.

(xi) On 14.08.2025, the Applicant issued a notice for an AGM on 20.08.2025 to consider the disputed matters. He alleges that the Respondents instead convened an AGM on 17.08.2025, at which the FY 2024-25 accounts were adopted, Respondent No. 3's appointment was regularised and the Applicant was removed as director, in alleged breach of Sections 115 and 169. By email dated 19.08.2025, Respondent No. 2 informed the Applicant that, his holding having been reduced to 8%, he lacked authority to convene a meeting. The Applicant's proposed meeting of 20.08.2025 did not proceed; he alleges that he apprehended a threat to his safety at the venue and lodged police representations on 21.08.2025.

(xii) In proceedings before the ROC, Respondent Nos. 1 and 2 asserted telephonic consent by the Applicant to the meetings of 28.02.2025, which the Applicant denies. He lodged FIR No. 0264 of 2025 at Ludhiana on 17.10.2025 concerning the alleged misuse of his DSC and fraudulent allotment. On 27.11.2025, the ROC informed him that he could approach the NCLT for appropriate relief, following which he instituted the present proceedings after issuing public cautionary notices on 28.11.2025.

(xiii) The Applicant alleges diversion of approximately ₹10.53 crore, including an unauthorised withdrawal of ₹30 lakh, to Respondent No. 2, his family members and connected entities, withholding of statutory records, manipulation of the FY 2024-25 financial statements, and non-payment of his salary.

(xiv) The Applicant submits that he continues to hold 8% shareholding, that the proposed Company Petition raises serious and unadjudicated allegations of oppression and mismanagement, and that the very acts complained of caused the loss of his statutory eligibility. He relies on ***Tata Consultancy Services Ltd. v. Cyrus Investments Pvt. Ltd.(2021) ibclaw.in 358 SC***, ***Cyrus Investments Pvt. Ltd. v. Tata Sons Ltd.(2019) 212 Comp Cas 269***, and ***Manoj Bathla v. Vishwanath Bathla*** to contend that only a prima facie examination is warranted at this stage, and that a person responsible for engineering dilution cannot rely upon it to defeat the diluted member's remedy.

REPLY OF THE RESPONDENTS

3. Respondent Nos. 1 and 2 have filed a joint reply dated 27.01.2026. Their reply is summarised as follows:
   (i) The allegations of oppression, fraud, forgery, diversion of funds and mismanagement are denied, and that the Application discloses no exceptional circumstance, characterising the dispute as a personal and directorial disagreement arising after decisions taken with the Applicant's knowledge or consent.
   (ii) The MoU-cum-Settlement dated 26.08.2022 and the construction agreement dated 28.08.2022, executed by both directors in favour of GNR Developers Private Limited, are relied upon to contend that the Company's arrangements with the GNR entities were contractually authorised and pre-dated the present disputes.

(iii) Reliance is placed on ledger entries, including one described as "Sukhdev Share Money Refund" and others recording salary payments to the Applicant, to dispute his portrayal of his shareholding as a continuing capital contribution; Company expenditure is explained as payments towards construction, approvals, materials, salaries and other project costs.

(iv) A notice dated 29.01.2025, offer letters dated 06.02.2025 and 27.02.2025, and resolutions dated 28.02.2025 are relied upon to contend that the enhancement of capital followed a corporate process and that the Applicant was offered, but failed to avail of, his proportionate entitlement. An attendance sheet for the Board meeting of 28.02.2025 (6:00 p.m.) bearing the Applicant's name is relied upon to dispute his claimed absence, and it is asserted that the statutory filings carry a presumption of regularity.

(v) The appointment of Respondent No. 3 is defended as connected with the Company's business requirements and as having been later regularised at the AGM. It is disputed that the transfer of 100 shares to ten persons was a sham device; the transferees are asserted not to be fictitious and are stated to be reflected in the statutory records.

(vi) Diversion of ₹10.53 crore is denied, with the construction agreement, the MoU and the ledger accounts relied upon to explain the impugned payments as connected with construction, settlement obligations, approvals and other project expenses; the increase in liabilities and inventory is attributed to the expansion of project activity.

(vii) Records of salary payments to the Applicant are relied upon, while it is simultaneously contended that Respondent No. 2 was principally responsible for the Company's day-to-day management and funding. The special notice dated 21.07.2025, proof of dispatch, and the minutes of the AGM dated 17.08.2025 are relied upon to defend the Applicant's removal and Respondent No. 3's regularisation, it being asserted that the Applicant was duly notified but did not participate.

(viii) Allegations are raised concerning the Applicant's alleged association with Mr. Charan Singh Saini and Preet Land Promoters and Developers Private Limited, it being contended that the Applicant acted in concert with persons interested in destabilising the project and discouraging homebuyers, investors and contractors.

(ix) It is contended that the Applicant did not challenge the impugned acts at the earliest opportunity, with reliance placed on WhatsApp communications of January-February 2025 to suggest that he had contemplated settlement or withdrawal; it is submitted that the Application should be dismissed for want of exceptional circumstances.

Reply filed by the other i.e, Respondents Nos. 8, 9, 10, 11, 12, 13, and 15 is summarised as follows:

(x) Respondent Nos. 8, 9, 10, 11, 12, 13 and 15 have filed a separate reply dated 13.05.2026, adopting the preliminary objections of the other contesting Respondents to the extent applicable.

(xi) Their principal contention is that they have been impleaded without any specific allegation of participation in oppression, mismanagement or misconduct, and that the Application is vague and unsupported by documentary evidence as against them. They allege that the Applicant, in collusion with Mr. Charan Singh Saini, has sought to portray the project as disputed and to discourage homebuyers, banks and contractors, relying on FIR No. 0007 dated 06.01.2026, stated to have been lodged against Mr. Saini at the instance of GMADA.

(xii) They submit that waiver under Section 244 can be granted only where a prima facie case is disclosed against the person concerned, that no such case is made out against them, and that the Application be dismissed qua them with costs.

Rejoinder of the Applicant

4. The rejoinder to the reply of Respondent Nos. 1 and 2, is summarised as follows:

(i) The scope of the reply, comprising some sixty paragraphs and fifty-three annexures, is objected to as an attempt to convert the limited Section 244 waiver enquiry into a trial on the merits; the annexed documents and allegations are denied except what is specifically admitted, and are described as unauthenticated and self-serving.

(ii) The Applicant's original 80% shareholding, it is reiterated, stands admitted in the incorporation records, and the principle that a wrongdoer cannot take advantage of his own wrong is invoked to contend that Respondent Nos. 1 and 2 cannot rely on the impugned dilution to defeat his eligibility. Delay or acquiescence is denied, a continuing cause of action being asserted from the disputed PAS-3 of 28.02.2025 through the Applicant's removal on 17.08.2025 to the ROC's communication of 27.11.2025; reliance is placed on Section 430 to contend that the dispute falls within the exclusive jurisdiction of this Tribunal. An attempt is made to distinguish ***Adesh Kumar Gupta and Ors. v. Liberty Shoes Ltd., (2024) ibclaw.in 606 NCLAT***,on the ground that it involved only removal from directorship, without any dilution of the petitioner's shareholding by the impugned acts.

(iii) The notices, offer letters, resolutions and attendance sheets relied upon for the allotment of 90,000 shares are denied; the ₹9 lakh transaction of 27.02.2025 is reiterated to demonstrate the absence of genuine consideration, and the Applicant's travel records are relied upon to deny physical presence at the meetings of 28.02.2025. The common notarial date of 16.07.2025 on Annexures R-15 to R-21 is pointed to as indicative of post facto fabrication, and production of the original minutes book, attendance register, notices and notary register is sought.

(iv) The valid appointment of Respondent No. 3 is denied, it being contended that subsequent regularisation cannot cure an appointment void from inception. The transfer of 100 shares is denied to be a bona fide commercial transaction and is described instead as a deliberate fragmentation to enlarge the membership and manufacture quorum, undertaken without valid Board approval or transfer documentation.

(v) The Respondents' characterisation of the impugned payments as legitimate is disputed, it being contended that no loan agreements, repayment schedules or supporting Board resolutions have been produced; the Respondents' ledger annexures are objected to as unauthenticated and, in part, irrelevant to the specific allegations in the Petition.

(vi) The explanation for the increase in liabilities and inventory is disputed, and it is contended that the FY 2024-25 balance sheet was signed only by Respondent Nos. 2 and 3 without the Applicant's knowledge or a valid Board meeting.

(vii) The characterisation of the Applicant as a dummy or nominal director is disputed, with reliance placed on the Respondents' own records of his 80% holding and salary. The authenticity and sufficiency of the special notice dated 21.07.2025 and the proof of service are disputed, it being contended that the courier record does not establish delivery; the Applicant's removal and the AGM proceedings of 17.08.2025 are submitted to rest on a disputed shareholding structure.

(viii) Collusion with Mr. Charan Singh Saini is denied, and the Respondents' reliance on the Preet City disputes and unadjudicated FIRs is described as extraneous to the core allegations concerning dilution, fabrication and diversion.

(ix) The Petition, it is reiterated, discloses a wider pattern of oppression and mismanagement; it is prayed that the numerical requirements of Section 244(1)(a) be waived and that the main Company Petition be permitted to proceed to adjudication under Sections 241 and 242.

ANALYSIS AND FINDINGS:

5. We have heard the Ld. counsel for the parties and perused the material available on record carefully.

6. The jurisdiction being exercised in the present Application is confined to the proviso to Section 244(1) of the Act. For a ready reference, Section 244 of the Companies Act, 2013 is reproduced herein:

> *244. (1) The following members of a company shall have the right to apply under section 241, namely:—*
>
> *(a) in the case of a company having a share capital, not less than one hundred members of the company or not less than one-tenth of the total number of its members, whichever is less, or any member or members holding not less than one tenth of the issued share capital of the company, subject to the condition that the applicant or applicants has or have paid all calls and other sums due on his or their shares;*
>
> *(b) in the case of a company not having a share capital, not less than one-fifth of the total number of its members:*
>
> ***Provided that the Tribunal may, on an application made to it in this behalf, waive all or any of the requirements specified in clause (a) or clause (b) so as to enable the members to apply under section 241.***
>
> *Explanation.—For the purposes of this sub-section, where any share or shares are held by two or more persons jointly, they shall be counted only as one member.*
>
> *(2) Where any members of a company are entitled to make an application under subsection (1), any one or more of them having obtained the consent in writing of the rest, may make the application on behalf and for the benefit of all of them.*

It is well settled that at this threshold stage, the Tribunal is required only to satisfy itself whether the facts pleaded disclose a prima facie case of oppression and mismanagement warranting a departure from the numerical thresholds prescribed under Section 244(1)(a); it is neither required nor permitted to conduct a fact-intensive mini-trial or to render a conclusive finding on the merits of the rival contentions. In ***Tata Consultancy Services Ltd. v. Cyrus Investments Pvt. Ltd., (2021) 4 SCC 449***, the Hon'ble Supreme Court held that the power to grant waiver is a discretionary and equitable one, to be exercised so that genuine grievances are not shut out at the threshold, and that the Tribunal must satisfy itself of exceptional circumstances without conducting a mini-trial on merits at the waiver stage.

7. In ***Cyrus Investments Pvt. Ltd. v. Tata Sons Ltd. (2019) 212 Comp Cas 269***, the Hon'ble NCLAT held that questions dependent on claim and counter-claim, including whether a prima facie case is made out, whether the petition is barred by delay or laches, whether the conduct of the applicant disentitles him to relief on the ground of unclean hands, and whether there is acquiescence or estoppel cannot be conclusively determined at the waiver stage.
8. Applying these principles, this Tribunal declines to render any conclusive finding on the several disputed questions of fact raised in the pleadings including the genuineness of the disputed Board resolutions, the authenticity of the attendance sheets and notices, the character of the disputed financial transactions, and the validity of the special notice and AGM of 17.08.2025, all of which remain to be established or rebutted by evidence at the trial of the main Company Petition bearing **C.P. No. 77/CHD/PB/2025**.
9. Notwithstanding the confined scope of the enquiry, certain aspects of the record, being either uncontroverted or supported by contemporaneous or statutory material, are sufficient to disclose a prima facie case for the present Application.
10. It is not in dispute that Respondent No. 1 was incorporated on 19.08.2022 with the Applicant holding 80% of the initial shareholding (8,000 of 10,000 shares) and Respondent No. 2 holding the remaining 20%, both being its first directors. Notably, the Respondents' own statutory filings for FY 2023-24, Form MGT-7A and Form AOC-4,

record the Applicant as an 80% shareholder drawing an annual salary, which sits uneasily with their present characterisation of him as a dummy or non-contributing director. Whether the ₹80,000 paid to him on 30.03.2023 was salary, as he claims, or an informal refund of subscription capital outside the framework of Sections 66 and 68, as the Respondents suggest, remains a disputed question left open for trial.

11. The banking records on record indicate that on 27.02.2025, one day prior to the purported Board meeting wherein the rights allotment of 90,000 shares was resolved, a sum of ₹9,00,000/- was credited to the Company's account from a source associated with Respondent No. 2, and an identical sum was debited back to him on the same date. While the Respondents contend that these transactions represent normal corporate cash flow management, the contemporaneous credit and debit entries, occurring prior to the share allotment, prima facie raise a triable issue as to whether genuine and enduring subscription capital was received by the Company under Sections 39 and 62 of the Act. A final determination on the commercial intent and validity of these banking entries is a matter for trial and cannot be concluded at this interlocutory stage.

12. Regarding the Board meetings recorded as held on 28.02.2025, the Applicant has raised a substantial dispute concerning his attendance, presenting timestamped Uber ride and fuel purchase receipts that place him in Ludhiana at the relevant times. The Respondents have

countered this by producing attendance sheets bearing the Applicant's name and signature and by relying on their ROC submission dated 08.09.2025, alleging that the Applicant gave consent. In evaluating these conflicting positions, we note that the records for this period bear a uniform notarial attestation date of 16.07.2025, several months after the alleged meetings. While we refrain from rendering any final finding on the authenticity of the signatures or the timing of document execution, the delayed notarization and the location records collectively establish a prima facie triable dispute that cannot be summarily dismissed.

13. The transfer of 100 shares on 29.03.2025, in identical lots of ten shares each to ten individuals, occurring within a month of the disputed allotment and shortly before the AGM at which the Applicant was removed, is, prima facie, an event of considerable significance to the maintainability of the main Company Petition. Whatever the ultimate merits of the transfer, its effect taken together with the allotment of 28.02.2025 was to reduce the Applicant's shareholding to 8% and simultaneously to enlarge the membership of Respondent No. 1 from two to twelve, thereby foreclosing both alternative pathways to eligibility under Section 244(1)(a). The objection of Respondent Nos. 8 to 13 and 15 that no specific misconduct is alleged against them individually does not detract from this position, since their impleadment arises not from an allegation of personal wrongdoing but from the fact that the very transfer effecting their induction as

members is under challenge as an instrument of the alleged oppression; whether they are bona fide transferees, as they assert, is a matter for adjudication in the main Petition.

14. The Applicant's grievance concerning his removal at the AGM of 17.08.2025 including the sufficiency of the special notice dated 21.07.2025 and its proof of dispatch, and the reliance on the votes of the very shareholders whose induction is itself under challenge is similarly a matter requiring evidence and is not decided here; it is noted only that the Applicant has raised a triable and substantial grievance in this regard, connected to and arising from the disputed events preceding it.

15. The main Company Petition bearing **CP No. 77/CHD/PB/2025** also contains extensive allegations concerning fund transfers to family-controlled entities, the opening of a new Kotak Mahindra Bank account in mid-2025 to operate outside the Central Bank of India account freeze, and anomalies in the financial statements for FY 2024-25. The Respondents have justified these payments as legitimate construction and settlement costs under tripartite agreements dated 26.08.2022, and explain the financial adjustments through detailed ledger accounts. It is a settled principle that at this threshold stage, the Tribunal cannot decide on the commercial correctness or merits of these transactions, nor can it conduct a detailed audit.

16. The main contention advanced by the Applicant is that Respondent Nos. 1 and 2 cannot rely upon the very acts of dilution and

fragmentation impugned in the Company Petition to defeat his statutory eligibility to maintain it. This contention finds support in the decision of the Hon'ble NCLAT in ***Manoj Bathla v. Vishwanath Bathla Company Appeal (AT) No. 399 of 2018***, where it was held that insistence on the strict statutory threshold, in a case where the petitioner's shareholding had been diluted below that threshold by the very acts of oppression and record manipulation complained of, would work a travesty of justice. On the facts pleaded and the prima facie view taken above, the present case falls squarely within this line of reasoning: the Applicant's reduction from 80% to 8%, and the simultaneous increase in membership from two to twelve, are the very transactions impugned as oppressive in the main Company Petition, and it would be anomalous to permit those very transactions to operate as a bar to the Applicant's remedy against them.

17. The submission of Respondent Nos. 1 and 2 that the controversy is essentially a directorial dispute, made by reliance on Adesh Kumar Gupta v. Liberty Shoes Ltd., is not accepted for the purposes of the present Application. The grievance in the present case is not confined to the Applicant's removal from directorship; it extends to the allotment of 90,000 shares, the fragmentation of shareholding, the alleged misuse of his DSC in statutory filings, and the alleged diversion of Company funds, of which the removal is only a subsequent event. The Applicant's removal, in his case, followed and was made possible by the disputed change in the shareholding

structure, and the two cannot be viewed in isolation. The further objection that questions of alleged forgery and misuse of the DSC are matters exclusively for a civil court is equally without force at this stage, having regard to Section 430 of the Act, which excludes the jurisdiction of civil courts in respect of matters which this Tribunal is empowered to determine under the Act.

18. The objections of delay, laches and inconsistent conduct raised by Respondent Nos. 1 and 2, including their reliance on WhatsApp communications and the unsigned draft MoU of late 2024, are matters going to conduct and equity, and are not to be conclusively determined at the waiver stage.

CONCLUSION

19. For the reasons set out above, this Tribunal is satisfied that C.P. No. 77/CHD/PB/2025 raises substantial allegations pertaining to oppression and mismanagement which cannot, at the waiver stage, be characterised as frivolous. The reduction of the Applicant's shareholding below the threshold prescribed under Section 244(1)(a), as well as the increase in the Company's membership, are themselves alleged to be consequences of the very acts complained of in the main Petition. These circumstances, particularly the impugned dilution and alteration of the membership structure, constitute an exceptional circumstance warranting exercise of the discretion vested in this Tribunal under the proviso to Section 244(1) in favour of the Applicant.

20. In view of the foregoing, the requirement of eligibility prescribed under Section 244(1)(a) of the Companies Act, 2013 is waived qua the Applicant, Mr. Sukhdev Singh, to enable him to maintain C.P. No. 77/CHD/PB/2025 under Sections 241 and 242 of the Act against the Respondents. It is clarified that the observations made in this order are confined to the limited purpose of examining whether a prima facie case for waiver is disclosed, and shall not be construed as an expression of opinion on the merits of the rival contentions of the parties, all of which shall be independently examined and decided in the main Company Petition.

21. Accordingly, **C.A. No. 267 of 2025** is ***allowed and disposed of***.

SD/-

(SHISHIR AGARWAL)
MEMBER (TECHNICAL)

SD/-

(KHETRABASI BISWAL)
MEMBER (JUDICIAL)

Yuvraj