

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Company Appeal (AT) No. 32 of 2021**

In the matter of:

Ashish Lodha & Anr.

....Appellants

Vs.

Indira IVF Hospital Pvt. Ltd. &Ors.

....Respondents

Present:

Appellants: Mr. P. Chidambaram, Mr. Ramji Srinivasan, Senior Advocates with Mr. Pranaya Goyal, Ms. Swapnil Khatri, Mr. Utkarsh Kulvi, Mr. Chitranjivi Sharma, Mr. Dharav Shah, Mr. Rishab Alva, Ms. Prachi Khatri, Ms. Rajshree Chaudhary, Mr. Dhawal Desai, Mr. Shivkrit Rai, Advocates.

**Respondents: Dr. U.K Chaudhary, Senior Advocate with Ms. Manisha Chaudhary, Mr. Mansumyer Singh, Mr. Naveen Dahiya, Mr. Aditya Bisht, Mr. Satyam Roy, Advocates for R1,4,5 & 8.
Mr. Nakul Dewan, Senior Advocate with Mr. Rajendra Barot, Mr. Prabhav Shroff, Mr. Harshit Jaiswal, Mr. Sambit Nanda, Mr. Ravi Lochan, Advocates for R2, 6 &7.
Mr. Arun Kathpalia, Senior Advocate with Mr. Yellop Singh, Mr. Kausar Hussain, Advocates for R3.
Ms. Aayushi Sharma, Advocate for R9.**

ORDER

(Through Virtual Mode)

05.03.2021: National Company Law Tribunal ("Tribunal" for short), Jaipur Bench, by virtue of impugned order dated 25th February, 2021 did not accede to the prayer of Appellants herein to issue notice in CA No.16/JPR/2021 on the ground that the main Company Petition No.164/241-242/JPR/2020 is coming up for final hearing and the afore-numbered CA along with all other CAs were directed to be listed along with the main

Company Petition on 4th March, 2021. The matter is said to have been adjourned to 16th March, 2021.

2. Mr. P. Chidambaram, learned Senior Counsel for the Appellants would submit that the Tribunal has, while clubbing the CA No.16/JPR/2021 with CP ignored its earlier order dated 03rd February, 2021 in terms whereof the Appellants were held entitled to exercise their right of inspection of the record of the company and a slew of directions came to be passed in para 16 of the aforesaid order. He would further submit that though inspection was permitted to be carried out, all relevant documents were not made available for inspection compelling the Appellants to file CA No.16/JPR/2021 but the Adjudicating Authority clubbed the same with the main CP which was posted for final hearing. It is submitted that the main Company Petition should not be heard finally before addressing the issue raised in CA No.16/JPR/2021.

3. Dr. U.K Chaudhary, Mr. Arun Kathpalia and Mr. Nakul Dewan, learned Senior Counsel representing the Respondents, refuted the assertion of fact on the part of Appellants as regards denial of access for inspection of all record sought to be inspected by the Appellants and submitted that all the requisite documents were made available for the inspection of the Appellants and the exercise was overseen by the Court Commissioner.

4. After hearing learned Senior Counsel representing the parties, we are of the view that we need not fathom into the depths of the merits of the case. The instant appeal can be disposed off with direction to the Tribunal to address the CA No.16/JPR/2021 at the outset before embarking upon hearing and disposal

of the main Company Petition as the CA No.16/JPR/2021, given the frame of the application and the relief claimed therein, cannot be deferred for consideration while the main Company Petition is being heard. That would be a travesty of justice. We order accordingly.

**[Justice Bansi Lal Bhat]
Acting Chairperson**

**[Dr. Ashok Kumar Mishra]
Member (Technical)**

AR/g