

NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH: GUWAHATI

I.A. No. 09 of 2018
[Dy. No. 1(61) of 2018]
&
Dy. No.1(60) of 2018

IN

T.P. No.01/111/397/398/GB/2016
[Arising out of C.P. No.619/2010]

Under Section: 397/398 of the Companies Act, 1956

In the matter of:

Asharam Leasing & Finance (P) Ltd. & others ... Applicants/Petitioners
(Substituted by M/s. Prithvi Tea Co. Pvt. Ltd.)

-versus-

Doloo Tea Company (I) Ltd. & others ... Non-applicants/Respondents

Order delivered on 05th March, 2018

Coram:

Hon'ble Mr. Justice P. K. Saikia, Member (J)

For the applicants/petitioners : Ms. J. Tripathy, Advocate

For the non-applicant/respondent No.1 : Mr. G. Khandalia, Advocate

ORDER

I.A. No.09 of 2018
[DY. No.1(61) of 2018]

Heard Ms. J. Tripathy, Advocate, appearing for the applicants/petitioners. Also heard Mr. G. Khandalia, learned Advocates appearing for the non-applicant/respondent No.1.

2. Seen the note of the Registry. The application has been filed in accordance with the prescription of law and hence, the same is admitted.

3. This application has been filed by the applicants/petitioners seeking the following relief/s: -

"IV. RELIEFS SOUGHT: -

In the facts and circumstances as stated hereinabove, the applicant humbly prays for following reliefs:

- A) An order be passed allowing the applicant to bring on record the facts and documents as pleaded in paragraph 1 to 2 and 5 to 8 and sub-paragraphs (a) to (l) of this instant application by way of supplementary affidavit or by any other mode as this Hon'ble NCLT, Guwahati Bench may deem fit and proper;*
- B) Ad interim orders in terms of prayers above;*
- C) Cost of and incidental to this appeal be paid by the respondents;*
- D) Such further or other order and/or orders be passed and direction or directions be given as this Hon'ble Tribunal may deem fit and proper."*

4. This Bench of the Tribunal on the last occasion on 15th February, 2018, has passed the following order, relevant part of which reads as under: -

6. Referring to the Order of this Bench dated 30-01-2018, Mr. S. K. Medhi, learned counsel for the applicants/petitioners submits that in terms of the directions of the Bench, the copy of application seeking incorporation of some new facts in the connected company petition, has been served on the non-applicants/respondents and as such application was dispatched to the postal department on 25-01-2018. In support of such contention, an affidavit has also been filed.

7. Mr. Medhi further submits that while the non-applicants/respondents No.1, 7 and 10 have received such application, it was not known whether application so sent to other non-applicants/respondents, had reached the destination or not. In view of above, he submits before the Bench to list the matter after some time so that, in the meantime, thirty days' period as contemplated in law for entertaining legal presumption about such application having been served, is expired. He further submits that the copies of the application were sent by Regd. Post with A/D.

8. The learned counsel for the non-applicant/respondent No.1 submit that they are not going to file any reply to the prayer in the application, seeking amendment of the connected company petition. On the other hand, the learned counsel for the respondents No.7 and 10 has prayed for some time, so that he can file reply to the aforesaid application.

9. The learned counsel for the respondents No.7 and 10 are directed to file reply within a period of ten days from today, supplying simultaneously, copy thereof to the petitioners/applicants. If so advised, the applicants/petitioners, may file rejoinder within a period of five days therefrom.

10. List this matter on 05th March, 2018."

5. It is apparent from the order dated 15-02-2018, in Dy. No.1(61) of 2018, that the respondents No.1, 7 and 10 have already received copy of the application in this proceeding, but they have not filed any objection to the prayer made in the application under consideration. Accordingly, it is held that these respondents have no objection against the prayer of the applicants/petitioners aforementioned.

6. It is also found from the order aforesaid that copy of this application has been sent to all the non-applicants/respondents by registered post with A/D and in the meantime, thirty days' time from the date of dispatch to the postal department has already been expired. Record reveals that the copies of the said applications were sent to the non-applicants/respondents in their proper addresses.

7. Since the A/D has not been returned unserved, this Bench deems it necessary to presume that the copies of the said application had been properly delivered to the addressees aforementioned. Since those non-applicants/ respondents have not filed any objection against such prayer till date, I am of the opinion that they have no objection in accepting the prayer made in the present application.

8. I have considered the submissions from the side of the learned counsel for the parties and found reason to accept the prayer made in this application. Accordingly, the prayer is allowed and the application is ordered to be treated as a part of the connected petition.

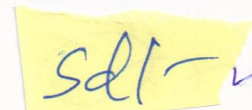
9. Accordingly, this application stands disposed of.

Dy. No.1(60) of 2018

10. On perusal of records, it is found that the Diary No.1(60) of 2018 has already been disposed of vide order dated 15-02-2018. However, inadvertently, the same has been disposed of as Diary No.1(60) of 2018, though the same ought to have been disposed as Interlocutory Application (I.A). The Registry is directed to make necessary correction in that regard by registering Dy. No.1(60) of 2018 as I. A. in accordance with prescription of law. Since the aforesaid application has already been disposed of on 15-02-2018, no further order is required to be passed. But the Registry would reflect in the connected register about the disposal of the said Interim Application on 15-02-2018.

T.P. No.01 of 2016

11. Since exchange of pleadings in this proceeding has been completed, list this matter on 06th April, 2018 for final hearing.



Member (Judicial)

National Company Law Tribunal
Guwahati Bench: Guwahati.

Dated, Guwahati, the 05th March, 2018

Deka/05-03-2018

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