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NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH

PRESENT: HON'BLE SHRI RATAKONDA MURAL – MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 20.09.2018 AT 10.30
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| TRANSFER PETITION NO. | TP NO. 83/HDB/2016 |
| COMPANY PETITION/APPLICATION NO. | IA NO. 274/2018 in CP No. 73/2015 |
| NAME OF THE COMPANY | Prakjoythi Constructions Pvt Ltd |
| NAME OF THE PETITIONER(S) | N. Kasthur Reddy |
| NAME OF THE RESPONDENT(S) | Prakjoythi Constructions Pvt Ltd & 4 Others |
| UNDER SECTION | 58/59 |

Counsel for Petitioner(s):

| Name of the Counsel(s) | Designation | E-mail & Telephone No. | Signature |
|------------------------|-------------------------|------------------------|-----------|
| Mr. Habibullah | Advocate | habib@prajoythi.com | |
| N. Kasthur Reddy | petitioner in person | NKR20002@prajoythi.com | NKasthur |

Counsel for Respondent(s):

| Name of the Counsel(s) | Designation | E-mail & Telephone No. | Signature |
|------------------------|-------------|------------------------|-----------|
| L. VENKATESHWAR KOD | Advocate | vylawyers@gmail.com | |
| | | 9348599999. | |

ORDER

Orders passed vide separate orders.


Member (J)

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**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

IA no. 274 of 2018
In
CP No. 73 of 2015
(TP No 83/HDB/2016)
U/s 424 (3) of Companies Act, 2013

In the matter of

N. Kasthur Reddy
S/o Veera Reddy
Residing at Flat 705, Emerald Block
Myhome Jewels Apartments
Madinaguda, Hyderabad – 500049

...Applicant/
Petitioner/Decree Holder

Versus

M/s Prakjyothi Constructions Private Limited
Flat No. 301, Prakjyothi Highlands Apartment
Adjacent to PVNR Expressway, Pillar No. 212
Rajendranagar
Hyderabad – 500048

... Respondent /
JDRs

Date of order: 20.09.2018

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Hon'ble Shri Ratakonda Murali, Member (Judicial)

Parties / Counsels present

For the Applicant : Mr. Mohd. Habibullah, Advocate

For the Respondent: Mr B. Mukesh. Advocate along with
Mr. L. Venkateshwar Rao, Advocate


Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)

Heard on: 10.07.2018, 30.07.2018, 24.08.2018, 12.09.2018

ORDER

1. This Application is filed under Section 424 (3) of the Companies Act, 2013 to allow the Execution Petition filed by the Applicant and ordering attachment of movable property of the Respondent Company as described in Form No.8 annexed at pages 9 to 12 to this Application.
2. Brief averments made in the Application are:-
 - (1) The Applicant / petitioner had earlier filed CP 73 of 2015 under Section 397, 398 and 111A R/w Sec 402 and 403 of Companies Act, 2013 seeking to set aside the transfer of shares dated 22.03.2013 and rectify the Register of Members and restore membership of the Applicant holding 2,00,000 shares of Rs.10/- each etc.
 - (2) This Tribunal passed order dated 20.03.2017 to set aside the transfer of shares dated 22.03.2013 and further directed the Respondents to restore the Membership of the Petitioner for total shares of 2,00,000 shares of Rs.10/- each of the Company and rectify the Register of Membership of the Company within 10 days from the receipt of the copy of the order.
 - (3) Aggrieved by the said order the Respondent Company filed an Appeal before Hon'ble NCLAT, as Company Appeal (AT) No. 124 of 2017 which was dismissed.
 - (4) The Applicant also filed Appeal before Hon'ble NCLAT which was allowed in Company Appeal (AT) No.148 of 2017 seeking full & complete consequential reliefs with retrospective effect in

addition to relief awarded in CP 73 of 2015 by this Tribunal.

- (5) It is averred Petitioner received share certificate bearing No.23 dated 05.05.2017 in compliance to orders passed by this Tribunal in Execution Petition bearing no. CP 245/424/HDB/2017 on 07.07.2017, and as such the petition was withdrawn on 13.11.2017, with a liberty to the Applicant to file fresh Petition. However, the Petitioner is apprehensive whether the Respondent followed due procedure and in consonance with Hon'ble NCLAT order dated 29.05.2017 and requested the Respondents to furnish proof of evidence.
 - (6) It is further averred that the Petitioner vide his letter dated 16.01.2018 requested the Respondent to supply a copy of Form CG-1 filed in MCA Portal along with attested copies of minutes of relevant Board Meeting, copy of Members Register, Copies of cancelled share certificates etc which the Respondent declined to supply.
3. Counter is filed by Respondent.
- (i) It is contended that Company restored membership of the Petitioner by rectifying the Register of Members and issued Share certificate bearing No.23 dated 05.05.2017 reflecting the shareholding of the Petitioner in the company.
 - (ii) It is the case of Respondent that Petitioner also preferred an appeal to Hon'ble NCLAT and in Appeal (AT) No.148 of 2017 aggrieved for not granting relief with regard to subsequent allotment of shares, increasing the share capital etc during the period
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when petitioner ceased to be a Member and Hon'ble NCLAT vide order dated 29.05.2017 amended the order of this Tribunal dated 20.03.2017 in respect of subsequent allotment of shares and increase in the share capital.

- (iii) It is the case of Respondent that due procedure was followed by cancelling the share certificates issued in favour of other respondents and a fresh share certificate was issued in favour of Petitioner and thereafter the Respondent Company uploaded INC-28 on the site of MCA on 11.09.2017. But the same was rejected on the ground that it was not filed within 30 days and was not accompanied by an Application for condonation. Thereafter, the Respondent Company filed Application in prescribed Form No. CG-1 for condoning delay of two months fifteen days and the same was condoned vide order dated 19.02.2018. The Respondent Company re-submitted the Form on 07.03.2018.
- (iv) It is also the case of Respondent that the Company approached RoC with a request to re-open Form INC-28 for approval, followed by a letter dated 15.06.2018. MCA updated the master data by reflecting the changes in the authorized and paid up share capital of the company.
- (v) It is also the case of Respondent that it had complied with the orders of this Tribunal by rectifying the Register of Members and issuing him share certificate
- (vi) It is contended that the Applicant / Petitioner is trying to harass the Respondent Company despite

the fact that the Respondent Company complied with the orders passed by this Tribunal as well as orders of Hon'ble NCLAT.


(vii) It is the case of Respondent Company that the Petitioner / Applicant and others are facing criminal charges and petition bearing CP No.93 of 2013 is also pending against them.

(viii) Hence, it is prayed by the Respondent Company that the present Application lacks merits and deserves to be dismissed.

4. I have heard the counsels appearing for the Applicant / Petitioner and Respondent Company.
5. During the hearing it is brought to the notice of the Tribunal that share certificate was already issued to the Petitioner in pursuance to the order of this Tribunal which was subsequently confirmed by Hon'ble NCLAT. The Counsel for Petitioner wanted some proof that the name of Applicant is actually entered in the Register of Members maintained by the Company. A direction is given to the Applicant to approach the Company and obtain copy of the Register of Members to verify whether his name is included in the Registry or not. However, there is no further reply from the side of Applicant. It can be stated that the order of this Tribunal was complied.
6. I have gone through the counter. The Respondent has filed several documents along with counter namely copy of the Form INC-28 along with attachments enclosed thereto. It is marked as Annexure R-1. The Respondents also filed copy of Form CG-1 marked as Annexure R-2. The Respondents also relied on Annexure

R-3 which is order passed by MCA to RoC (H). The order shows that delay is condoned in filing e-form INC 28 by the Ministry of Corporate Affairs.

7. The Respondents also relied on Annexure R-4 the Copy of re-submitted Form INC-28. The main document is Annexure R-8 which is copy of the Company/LLP Master Data of the Company as maintained by MCA. So the documents submitted by Respondent clearly go to show that Company has complied the directions issued by the Tribunal as well as NCLAT. The present Application therefore deserved to be dismissed since Company has complied the directions.
8. In the result, the Application is dismissed since company as complied the directions.


RATAKONDA MURALI
MEMBER JUDICIAL