

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 2

ITEM No 135

Co.A/30 of 2021 in CP 114 of 2018

Order under Section Application For Direction

IN THE MATTER OF:

Prabhat Solvent Extraction Industries Pvt Ltd
V/s
Gopal Dhirajlal Vadalia & Ors.

.....Applicant

.....Respondent

Order delivered on ..16/08/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Chockalingam Thirunavukkarasu, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

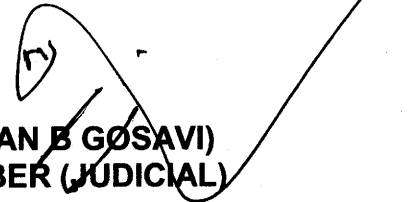
ORDER

The matter is fixed for pronouncement of order.

The order is pronounced in the open court, vide separate sheet.



**(CHOCKALINGAM THIRUNAVUKKARASU)
MEMBER (TECHNICAL)**



**(MADAN B GOSAVI)
MEMBER (JUDICIAL)**

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**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 2**

IA/30(AM)2021 in CP 114 (AHM)/2018

In the matter of:

M/s. Prabhat Solvent Extraction Industries Pvt Ltd Applicant

Versus

Gopal Dhirajlal Vadalía & Ors Respondent

Order delivered on 16th August, 2021

**Coram: Madan B. Gosavi, Hon'ble, Member (J)
Chockalingam Thirunavukkarasu, Hon'ble Member (T)**

For the applicants : Learned Sr. Advocates Mr. Navin
Pahwa and Mr. Saurabh Soparkar
Respondent : Learned advocate Mr. Anuj K. Trivedi

ORDER

Per se : Madan B. Gosavi, Hon'ble, Member (J).

1. This Application of Section 242 of the Companies Act, 2013, has been filed by respondent No. 1 to 4 herein in main company petition No. 114 of 2018 claiming for interim reliefs against respondent No. 5 herein.
2. The following facts are not in dispute.
3. Respondent No. 1 to 4 herein have filed Company Petition No. CP 114 of 2018 claiming certain reliefs against respondent No. 5 herein. Main company petition is under Section 241-242 of

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the Companies Act, 2013. On 17.12.2018, this Tribunal directed respondent No. 2 and 5 to maintain status quo as of the date in respect of the lands standing in their names as per prayer 15 (e) in the main petition. Para 15 (e) of main petition reads as under:

"15(e) That pending the hearing and final disposal of this petition, the respondent No. 2 to 10 be restrained from dealing with, disposing of, selling, transferring, creating third party rights or parting with the possession of Madhapar Land No.1, Madhapar Land No. 02, Madhapar Land No. 3, Targhadi Land No. 1, Targhadi Land No.2, Targhadi Land No. 3, Targhadi Land No. 4, Targhadi Land No. 5, Targhadi Land No. 6, Targhadi Land No. 7, Targhadi Land No. 8 to any person (s) in any manner whatsoever"

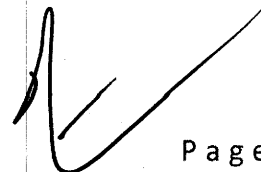
4. This interim application is filed by petitioner No. 2 for himself and others praying for order of injunction against respondent No. 5 not to interfere in the day-to-day affairs of the applicants and further debar respondent No. 5 from entering in the premises of the applicant company except with prior approval of the applicants.
5. We called upon Respondent No. 5 to file his say. Accordingly, it is filed. He controverted all allegations as made appears against him.

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6. We heard Learned Sr. Advocates Mr.NavinPahwa and Mr.SaurabhSoparkar for the applicants. We also heard at length Learned counsel Mr.Anuj K. Trivedi for the respondent.
7. Although interim injunction is prayed against Respondent No. 5 directing him not to interfere in day to day affairs of the applicant company and not to enter in the premises of the company without prior approval of the other applicants, Learned Sr. Counsels pointed out to us the photocopies of some hoardings already put up by Respondent No. 5 stating there that he is sole legatee of the land in dispute i.e.Madhapar Land No.1, Madhapar Land No. 02, Madhapar Land No. 3, Targhadi Land No. 1, Targhadi Land No.2, Targhadi Land No. 3, Targhadi Land No. 4, Targhadi Land No. 5, Targhadi Land No. 6, Targhadi Land No. 7, Targhadi Land No. 8. They would submit that this act of Respondent No. 5 create hindrance in day to day affairs of the company.
8. Respondent No. 5 in his reply at paraNo. 12.9 has asserted that he is the sole owner of subject properties. He did not dispute that he has put up hoardings/boards at the disputed site claiming to be sole owner thereof.
9. Upon going through the application it appears that there is bona fide dispute about the title of the subject land. Sale deeds on record show that the lands were purchased in the name of respondent No. 5 but the applicants herein contend that the lands were purchased on behalf of the company in the name of respondent No. 5. The triable question of facts





would be whether the lands purchased in the name of respondent No. 5 on behalf of the applicant company and whether the consideration amount was paid by the company or not?.

10. At this stage we are not entering into that dispute. Moreover, the dispute appears to be of civil nature because the ownership of the particular land to be declared. The question will be as to whether it is within competence and jurisdiction of this Tribunal.
11. Be that as it may the facts as stand on record are that the lands in dispute are in possession of the applicant company. The applicant No. 1 company is earning some profit there from may be by way of lease rent. In such situation if any party to the proceedings claim exclusive ownership of the lands in dispute without getting such dispute resolved from competent forum, then, we have to step into protect interest of the company. In fact, for this reason itself, this Tribunal directed Respondent No. 2 to 5 to maintain statusquo as to the lands in dispute.
12. Admittedly, on the date of issuing order dated 17.12.2018 there was no boards/hoardings at the site of disputed lands declaring anyone as the sole legatee thereof. To avoid multiplicity of the proceedings, we direct Respondent No. 5 to remove those hoardings/boards declaring himself to be the sole legatee. Report of compliance be filed within two weeks

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failing which the applicants are at liberty to remove those boards/hoardings under required protection.

13. With the above observation the instant application is partly allowed and disposed of.
14. We make it clear that we have not adjudicated the dispute about title of the lands nor we have any conclusion over the controversy between the parties at this stage.


(CHOCKALINGAM THIRUNAVUKKARASU)
MEMBER (TECHNICAL)


(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

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