

In the National Company Law Tribunal
Mumbai Bench.

IA 52/2018 in CP 26/237, 397-398/CLB/MB/2014

Under Section 397-398 of Companies Act, 1956.

In the matter of

Mr. Shridhar Vasudeo Bedekar : Petitioner
V/s
V.P. Bedekar And Sons Pvt. Ltd. : Respondent

Ad-Interim Order delivered on: 30.08.2018

Coram:

Hon'ble Shri M.K. Shrawat, Member (Judicial)

For the Petitioner(s) : 1. Mr. Mahesh Athavale,
2. Ms. Anagha Arasingaraju, PCS for Petitioners.

For the Respondent(s) : 1. Mr. Sameer Pandit a/w.
2. Ms. Madhupreetha Elango, i/b.
M/s. Wadia Ghandy & Co.

Per M.K. Shrawat, Member (Judicial).

AD-INTERIM ORDER

1. This Miscellaneous Application is submitted on 01.08.2018 by the Respondent of the Main Petition viz. V.P Bedekar And Sons Pvt. Ltd. and the Prayers are as under :-

"(a) This Hon'ble Tribunal be pleased to modify the Order dated February 15, 2016 [Exhibit 'A' hereto] to limit its operation to only sale of immovable property of the Company;

(b) Pending hearing and final disposal of the instant Application, this Hon'ble Tribunal be pleased to permit the Company to:

(i) grant its premises on a "leave and license basis";

(ii) deal with its plant and machinery, vehicles and other fixed assets not forming part of the Company's immovable properties."

2. Heard Ld. Counsel of both the sides. Attention was drawn on a communique dated 08.05.2018 written by Ld. Representative on behalf of the Petitioner viz Mr. Shridhar Vasudeo Bedekar addressed to the Learned Representative of the Respondent (main Petition). There is a reference of an earlier order of CLB dated 15.02.2016 wherein an order is to maintain status quo about of the properties of the Company. Further there is a reference of orders of NCLT respectively dated 13.02.2017 (IA 03/2017) and dated 08.06.2017 (IA 08/2017). On the basis of the past history, the Petitioner (of main Petition) has demanded that he may be granted an opportunity to place a counter-offer pertaining to the Leasing of the property in question. To facilitate the transaction, it is demanded to

supply certain documents/ information so that a deal can be negotiated with a prospective Licensee.

3. Considering the past history of the case, I am of the view that the Petitioner (of main petition) be also granted an opportunity to explore the possibility of submitting a counter-offer. Reasons for having this opinion is summarized hereinbelow :-

a) Respected CLB had put certain restriction vide order **dated 15.02.2016** not to alienate or dispose the immovable property without prior permission of CLB. Vide this order a limited embargo was imposed. It was not forbidden altogether not to deal with the Immovable properties of the Company. There was no direction in respect of renting out a property on Leave & License basis. Moreover, the said direction was challenged.

b) The Hon'ble High Court vide order **dated 22.04.2016** had modified some of the directions and most importantly granted an opportunity to the other side to put a counter-offer. To me the said important direction of the Hon'ble High Court is worth consideration while deciding the issue of granting permission to rent-out Company's property.

c) While deciding the similar issue of granting permission for L & L in an Interim-Order **dated 13.02.2017** (IA 03/2017), NCLT permitted to go ahead with the proposal of Leave & License in respect of only two Galas by the Company, only after recording a finding that there was no counter-offer from the other side.

d) Thereafter one more Interim Order was passed by NCLT **on 08.06.2017** directing the Company to furnish the Accounts for the period 31.03.2017. The main purpose is to protect the interest of all the stakeholders and that the Company must not be left as a shell Company by the time the Petition is decided. The Petitioner being a shareholder is entitled to peruse the Accounts of the Company.

4. In the light of the above factual matrix, directions are as under :-

A) The Company shall give following information within 15 days to the Petitioner:-

(i) Details of the entire premises including floor plan of the building – whether entire premises is proposed to be given on leave and license basis or the proposal is for part of the premises. If the proposal is for the part of the premises- details of the same including independent access, area in the compound, separate power and water meter etc.

(ii) Whether the premises is currently vacant or is given on leave and license basis.

(iii) Purpose for which the premises could be used by proposed licensee.

- B) The Petitioner shall thereafter on receiving the information explore the possibility of getting good proposal of Leave & License. The said proposal shall be placed before the Board within 45 days for due comparison and approval.
- C) The Company shall place before this Bench the annual statement of Accounts for the accounting period ended on 31.03.2018 and also the Rent account details on the next date of hearing.
5. This Petition **IA 52/2018** in **CP 26/237, 397-398/CLB/MB/2014** is disposed of accordingly.

Date : 30.08.2018
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SD/-
(M.K. SHRAWAT)
Member (Judicial)