

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

Item No. 110

173/241-242/PB/2019

IN THE MATTER OF:

Emmar Holding II

Vs.

Emmar MGF Land Ltd. & ors.

.... Applicant/petitioner

.... Respondent

Order under Section 241-242

Order delivered on 17.09.2020

Coram:

SHRI B.S.V. PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner(s):-

Mr. S.N Mukherjee, Sr. Adv. with Mr.
Dheeraj Nair, Mr. Kumar Kislaiy, Mr.
Angad Baxi, Advs.

For the respondent

Mr. K. Datta, Mr. Kunal M., Ms. Mehak
Khurana, Advs. for R-9
Ms. Tashampati Sen, Adv. for CA-
1811/19 & 247/2020
Dr. U.K Chaudhary, Sr. Adv. with Mr.
Jayant Mehta, Ms. Manisha
Chaudhary, Mr. Mansumyer Singh, Mr.
Aditya Bisht, Mr. Pranay C., Advs. for
R-2, 3, 4 & 8
Mr. Sajan Poorvayya, Sr. Adv. with Mr.
Kunal Sinha, Mr. Pratibhanu Khairola,
Ms. Raksha Agrawal, Advs. for R-1


ORDER

The petitioner side has sought correction of the order dated 30.07.2020 stating that a mistake has crept in the order stating that **“after completion of first hearing”** before mentioning that the answering Respondents side filed additional affidavit and also a mistaken direction **to list all the applications**, which is also factually incorrect.

The factual aspect as on the date order passed on 30.07.2020 is, the main case was part heard on various dates i.e., on 14th, 17th, 19th, 21st and 22nd of July 2020. Subsequent thereto, the Respondents side on 23.07.2020 filed the additional affidavit aforementioned requesting this Bench to take additional documents on record, but this Bench instead of mentioning this fact, by oversight mentioned as **after completion of first hearing** before writing about the Respondents filing additional affidavit – it is inconsistent with the factual aspect. To set the facts right, the petitioner counsel has sought for rectification of the mistake over progress of hearing as well as mentioning about direction **to list all the applications**. Because as on the date, one application was filed by the Respondents assailing maintainability of the main company petition, another was filed by the petitioner side asking for investigation.

When it has been put to the Respondents side counsel, the Respondent side has candidly admitted what all the Petitioner's side said is correct, whereby the afore said order shall be read as **after the main company petition is part heard on 14th, 17th, 19th, 21st and 22nd July 2020, the Respondents side has on 23.07.2020 filed an additional affidavit with a request to take additional documents on record.**

As to second correction sought, there are two applications pending for hearing, one – IA-89/2020 assailing the maintainability of the Company Petition pending, as to that application, for both the parties having agreed to argue on the main Company Petition instead of arguing over IA-89/2020, for the sake of completeness and clarity, we mention that the main matter was taken up for hearing and part heard on the dates mentioned in the order dated 30.07.2020. With regard to maintainability, Senior Counsel Dr. U.K. Chaudhary representing R2 already dealt with maintainability issue in the main hearing submissions he has started. R2 counsel has argued on 23rd, 24th, 28th and 30th July 2020 and concluded on merits.



Two - IA-70/2020 is on seeking investigation regarding transfer of assets of R1 Company by R2 group, for which also, both the parties agreed that the issues in IA-70/2020 could be dealt with while arguing the main CP.

It is clarified further that both the parties in the past itself agreed to make submissions in IA-70/2020 and IA-89/2020 as part of the main hearing instead of arguing applications separately. Accordingly, this Tribunal has started hearing on main company petition instead of separately hearing on the applications.

On the prayer made by the answering Respondents side in the midst of hearing asking leave of this Bench to take additional documents on record, the Petitioner's counsel has conceded without prejudice to the objections raised over filing of additional documents, if the answering Respondents, especially R2 counsel explains as to how those documents are relevant to the issues involved in this CP, the Petitioner side would file reply to the same and this Tribunal could then continue hearing of main CP. This proposition being agreeable to the Respondents side to explain the relevancy of those documents by filing additional affidavit by 21.09.2020, this Bench accordingly directs the Respondent side to file additional affidavit by 21.09.2020 and the Petitioner side to file reply by 25.09.2020.

List the main Company Petition for hearing on **12th, 13th and 14th of October 2020.**

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(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT

—sd—

(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)