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**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

**MA no. 2/ 424(3)/NCLT/AHM/2017
In CP No. 44 of 2009**

Coram:

**Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 04.07.2017**

Name of the Company: Twenty First Century Wire Rods Ltd.
V/s
Nijinoy Trading Pvt. Ltd.

Section of the Companies Act: Section 424(3) of the Companies Act;

S.NO. NAME (CAPITAL LETTERS) DESIGNATION REPRESENTATION SIGNATURE

1. Vimal Patel			
2. Harshrajsingh Vaghela	} Advocates for Applicant		
3. Mangesh Bhogale			
4. R.D. Choudhary		Res. No 2	

ORDER

Learned Advocate Mr. Vimal Patel with Learned Advocate Mr. Harshrajsingh Vaghela with Learned Advocate Mr. Mangesh Bhogale present for Applicant. Respondent no. 2 Mr. R D Choudhary present. None present for other Respondents.

This application is filed by M/s Twenty First Century Wire Rods Ltd., Mumbai to enforce the order dated 09.11.2011 passed by Hon'ble CLB in Company Petition no 44/2009 r/w Deed of settlement dated 08.11.2011.

Learned Counsel appearing for the Applicant contended as per the terms of settlement deed dated 08.11.2011 Respondent have to pay outstanding amounts and transfer the land and the same can be enforced by this Tribunal since the CP was withdrawn in view of the terms of settlement deed dated 08.11.2011. He further contended that CA79/634-A/CLB/MB/2015 now TP no. 112/2016 filed by N K Vasu for enforcement of order of CLB was withdrawn against the interest of the present applicant company.

2nd Respondent appeared in person and opposed the admission of the application. None present for other Respondents.


Following is the order passed by the CLB on 09.11.2011 in CP 44/2009

“The parties have filed an application stating that the disputes and differences have been amicably settled between them and accordingly executed the Deed of Settlement dated 8th November, 2011 and sought permission to withdraw the petition in terms of Deed of Settlement. Permission is accorded and CP no. 44 of 2009 is dismissed as withdrawn. No orders as to costs. All the interim orders stand vacated.”

In view of the above said order it is clear that CP 44/2009 is dismissed as withdrawn. It is not stated in the order of CLB that CP 44/2009 is disposed of in terms of settlement deed dated 08.11.2011. Unless and until the Deed of settlement is merged into the order of the CLB this Tribunal cannot enforce the terms of settlement deed dated 08.11.2011, in this enforcement application. Moreover, CA 79/2015 (Old) now TP 112/2016 (New) filed for enforcement of order was dismissed as withdrawn.

If there is any violation of terms of settlement deed dated 08.11.2011 it amounts to violation of contractual terms for which the remedy is elsewhere and in a different forum but not in the form of enforcement of order dated 09.11.2011 passed by CLB in CP no. 44/2009, before this Tribunal.

In view of the above discussion, there are no grounds to admit the application. Application is dismissed at admission stage. No order as to costs.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Dated this the 4th day of July, 2017.