

NATIONAL COMPANY LAW TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

I. A. No.20/2017  
T.A. No.29/2016  
(C.A. No.369/2011)  
I.A. No.16/2017

In

T.P. No.04/397/398/GB/2016  
[ Arising out of C.P. No.994/2011]

Under Section: 397/398 of the Companies Act, 2013

In the matter of:

Gaurangika Patel (on the death of Kanubhai Patel & Ors.

... Petitioners

-versus-

Doloo Tea Co. (I) Ltd. & others

... Respondents

Order delivered on 11<sup>th</sup> January, 2018

**Coram:**

**Hon'ble Mr. Justice P. K. Saikia, Member (J)**

For the Petitioners: Mr. N. Dasgupta, Advocate  
Mr. S. S. Roy, Advocate  
Ms. D. Chatterjee, Advocate

For the Respondents:	Mr. S. Sen, Advocate	- for Respondent No.1
	Mr. A. Banerjee, Advocate	- for Respondent No.1
	Mr. R. Mullick, Advocate	- for Respondent No. 1
	Mr. G. Khandelia,	- for Respondent No.1
	Mr. Nazrul Islam Khan, Advocate	
	(for Mr. A. Das, Advocate)	- for Respondent No.14
	Ms. J. Tripathy Advocate	- for Respondent No.15

**ORDER**

Heard the learned counsel for the parties. The petitioners are represented by Mr. N. Dasgupta, Ms. D. Chatterjee and Mr. S. S. Roy, Advocates, whereas the respondent No.1 is represented by Mr. S. Sen, Mr. A. Banerjee, Mr. R. Mallick and Mr. G. Khandalia, learned Advocates. The respondent No.14 is represented by Mr. A. Das and Mr. N.I. Khan, learned Advocates. The respondent No.15 is represented by Ms. J. Tripathi, learned Advocate.

2. Mr. Sen, learned counsel appearing for the respondent No.1 submits that they had already preferred an appeal before the NCLAT, New Delhi against the order dated 18<sup>th</sup> December, 2017 rendered by this Bench in this proceeding under consideration. The said appeal has been diarized by this time but, has not yet been listed for admission. Mr. A. Das, learned counsel appearing for the respondent No.14 submits that the respondent No.14 had also preferred an appeal against the order of this Bench dated 17<sup>th</sup> November, 2017 rendered in this proceeding and



the same has been diarized and as per information, they received, same would be listed tomorrow for admission. Accordingly, Mr. Das urged this Bench that the proceeding in hand may be adjourned for some time.

3. Mr. Dasgupta, the learned counsel appearing for and on behalf of the petitioner vehemently opposed the prayer seeking adjournment. In that connection, it has been submitted that the respondents, for one reason or the other, has been seeking adjournment over a long period of time having filed series of applications in that regard for which, the petitioners had to approach even the Hon'ble Apex Court of the country seeking various reliefs including relief in the form of clarification as to whether proceeding pending before the learned CLB, Kolkata could continue, which stood stayed for a long period of time.

4. In that connection, my attention has been drawn to the order dated 01-10-2015 rendered in IA No.02/2015 as well as the order dated 09-12-2016 rendered in SLP No.29566/2012, by the Hon'ble Apex Court of the country as well as the order dated 09-07-2014 rendered by the learned CLB, Kolkata. The learned counsel for the petitioners have also referred me to the order dated 17-11-2017 as well as to the order dated 18-12-2017 to show as to how the respondents had done their best to stall the further progress of the proceeding under consideration.

6. It has also been submitted that as per provisions of Section 422 of the Companies Act, 2013, NCLT is required to disposed of any proceeding before it within three months. However, in some extra-ordinary situations, the period may be extended to another three months' time. Unfortunately, in the present proceeding, several years have passed by till date but, the hearing in the proceeding could not be concluded and the same was entirely for the various measures adopted by the respondents in trying to stall the progress of the proceeding.

7. In trying to refute such contentions, Mr. Sen, the learned counsel for the respondent No.1, has submitted that the order dated 01-10-2015 rendered by the Hon'ble Apex Court in IA No.02/2015, has no relevance in the present proceeding. Further, he submits that the blame for the delay in disposing of the proceeding, cannot be laid at the doorstep of the respondents alone, rather, the petitioners are equally responsible for the delay in disposal of the proceeding in hand. He further submits that the respondents genuinely felt aggrieved by the order dated 17-11-2017 as well as the order dated 18-12-2017 and, therefore, they may be given a chance to question the legality, propriety etc. of the aforesaid orders.

8. I have considered the rival submissions seeking adjournment and objecting the same. It may be stated here that there cannot be any dispute that the Act of 2013 was brought to existence with the high hope of timely disposal of cases pending before CLB/NCLT and that has been done since under the old Act, it took years to dispose of the proceedings before the CLB.

9. One may also notice here that this Bench proposed to consider all the points involved in the proceeding in hand on rejecting the prayer of the respondents seeking hearing on the demurer application, before deciding the main contentions herein on merit vide order dated 17-11-2017. This Bench also refused to stay the proceeding till the disposal of some other proceedings now pending before the Hon'ble Calcutta High Court vide order dated 18-12-2017.

10. It is true that two sets of respondents have already approached the Hon'ble NCLAT, New Delhi but, same have not yet been listed for admission. It may be stated here that it is settled law that a proceeding need not be stayed only because of the fact that an appeal has been preferred as has been pointed out by Mr. Dasgupta, the learned counsel for the petitioners.

11. However, after hearing both the sides, in the interest of justice, I find it necessary to allow the prayer seeking adjournment on condition that in the event of failure of the respondents to secure any stay order from the appellate Tribunal, the parties hereto would do all the needful to allow this Bench to proceed with the proceeding.



12. Registry is directed to list the matters on 05<sup>th</sup> February, 2018.

*Solt*

Member (Judicial)  
National Company Law Tribunal  
Guwahati Bench: Guwahati.

Dated, Guwahati, the 11<sup>th</sup> January, 2018  
*Deka/11-01-2018*