

ATTENDANCE-CUM-ORDER SHEET OF HEARING

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH**

T.A.No.37/2016 (C.A.No.867/2015)
&
M.A.No.02/2017
In
T P No 07/397/398/GB/2016
(C P No.969/2012)

Gomukhi Construction (P) Ltd. ...Petitioner

-Versus-

North East Shuttles (P) Ltd ...Respondents

Present: Hon'ble Mr Justice P K Saikia, Member(J)

Date of Order: 19th June 2017

Name of the Company	Gomukhi Construction (P) Ltd. -Versus- North East Shuttles (P) Ltd.		
Under Section	397/398		
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

ORDER

T.A.No.37/2016

Mr S.K. Gupta, Sr. PCS and Mr N. Sharma, PCS are present for the petitioner/applicant.

2. Mr S. Dutta, learned Advocate for the respondent Nos.1&2/non-applicants could not appear before this Tribunal today which was communicated by

Mr A. Das, learned Advocate, stating that Mr S. Dutta has got stuck at Aizawl due to inclement weather and therefore, could not make it to the Tribunal today.

3. Mr A. Das further submits that Mr S. Dutta has, in the meantime, received written authority to appear for respondent No.1 company and respondent No.2 Managing Director. However, he could not produce the same before this Tribunal today for the reasons aforementioned. Mr A. Das again submits that the difficulties faced by Mr Dutta in appearing before this Tribunal today had already been communicated to Mr S.K. Gupta and Mr N. Sharma. Therefore, Mr A. Das prays that the matter be adjourned for some time.

4. Mr S.K. Gupta, Sr. PCS for the petitioner/applicant, however, objected to such a prayer for adjournment stating that this Tribunal was quite liberal in granting adjournments to the respondents aforesaid on one ground or other over a long period of time. A bare perusal of the order sheets would make it clear. He further submits that the delay in disposing of the application in hand had ultimately caused huge hardship and injustice to the petitioner/applicant since over a long period of time the money, due to the petitioner/applicant, remained outstanding and in that process the petitioner/applicant suffers profusely and profoundly.

5. In that connection, Mr Gupta states that there was a time when the respondents themselves wanted to dispose of the property involved in this proceeding which is well apparent from the various communications made between the respondents and prospective buyer of the aircraft in question. More importantly, they had, in fact, received a part of the sale proceeds as well. However, such sale did not happen for some technical reasons.

6. Therefore, there cannot be any impediment for the Tribunal in ordering the sale of the aircraft with the aid of a competent person/authority having required knowledge in the business involved. Mr Gupta, thus, urges this Tribunal to render necessary order requiring the person/authority aforesaid to take the possession of the property in order to assess the value of the same and thereafter to prepare a scheme for the disposal of the said property which shall be placed before this Tribunal for filing objection by the parties so that further action can be taken on such scheme.

6. Mr A. Das, learned Advocate, however, urges this Tribunal not to pass any order on the aforesaid submission made by Mr Gupta today in absence of Mr S.

Dutta who has reportedly obtained necessary authority to represent respondent Nos.1&2/non-applicants herein.

7. On hearing the parties present today, I have found that submissions made by the Mr S.K. Gupta, Sr. PCS carries sufficient force. However, in view of submissions advanced by Mr A. Das, learned Advocate and having regard to the circumstances projected before this Tribunal today, I am not inclined to pass any order on the submissions made by Mr S.K. Gupta, Sr. PCS.

8. List this matter on 24.07.2017.

9. However, I make it clear that on the next date, the respondents are directed to appear before this Tribunal without fail with all the information required so that this Tribunal can pass necessary order towards implementation of the order dated 14.11.2014 rendered by CLB, Kolkata in C.P.No.969/2012 (corresponding to T.P.No.07/2016).

M.A.No.02/2017

10. Mr S.K. Gupta, Sr. PCS & Mr N. Sharma, represent the petitioner/ applicant.

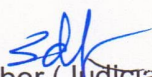
11, Mr S.K. Gupta submits that in terms of the order of this Tribunal passed on 25.04.2017, copies of the application with all the annexures were sent through speed post as well as by email to all the respondents/non-applicants.

12. It has been submitted that the envelope containing the application and the annexures sent by speed post to respondent Nos.1& 2 had been returned with the remark "Addressee Left" and in the case of respondent No.4 it has been returned with the remark "Door Locked". Mr Gupta further submits that the copy of the email dated 05.06.2017 was sent to Mr S. Dutta as well as the Registry of this Bench. In that connection, necessary communication was also made to Mr S. Dutta and all the other respondents as well as the Registry of this Bench.

13. Mr Gupta, therefore, submits that copy of the application may be treated as served on those respondents. More so, the email sent to the respondents have not bounced back meaning thereby that it has reached the addressees.

14. Since Mr S. Dutta has reportedly received the authority to represent respondent Nos.1 & 2 and since such authority is likely to be filed in a day or two, as submitted by Mr A. Das, learned Advocate, Mr S. Dutta is directed to obtain copy of the M.A.No.02/2017 from this Tribunal at the earliest so that he can file reply within 15 days from today supplying simultaneously copies thereof to the petitioner/applicant and the petitioner/applicant may file rejoinder, if any, within 7 days therefrom.

15. List this matter on 24.07.2017 along with connected proceedings.


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

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