

ATTENDANCE-CUM-ORDER SHEET OF HEARING

**NATIONAL COMPANY LAW TRIBUNAL  
GUWAHATI BENCH**

TP No.04/397/398/GB/2016  
(C P No.994/2011.

Kanubhai C.Patel & Ors ... Petitioners  
-Versus-  
Doloo Tea Co. (India) Ltd. and Others ... Respondents

**Present :**

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

**Date of hearing : 04.01.2017**

Name of the Company	Doloo Tea Co. (India) Ltd. and Others
Under Section	397/398

Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date
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**ORDER**

1. Heard Mr. N.Das Gupta, Mr. S.S. Dey and Ms. D.Chatterjee, learned counsel for the applicants/petitioners.
2. Mr A. Banerjee and Mr R. Mullick , learned counsel for the non-applicant / respondent No.1 could not appear before the court today. In that connection, the Registry has produced before me a Fax message showing that Mr. Banerjee is in bereavement since one of his family members died recently and therefore, it is prayed that the proceeding be adjourned for some time.
3. Mr. Das Gupta, learned counsel for the petitioners referring to the order dated 16.12.2016 and various other orders, passed in this proceeding submits that the respondent No.1 had employed every measures possible to delay the disposal of the proceeding in hand. In that connection, it has been submitted that whenever the proceeding is posted for final hearing, the respondent side have successfully invented one plea or other to ensure that the disposed of this proceeding get delayed



which is why this proceeding could not be disposed of till date, although, same was initiated as back as 2011.

4. According to Mr. Das Gupta, the ground on which adjournment is sought today is one of such grounds which respondent side has been invoking since long back. The fact that there was no information as to the person who reportedly expired recently and that fact that there was no information whatsoever as to the time when the person aforesaid died speak clearly that the ground on which adjournment is sought for today is not good enough requiring the court to adjourn the proceeding as prayed for by the respondent side.

5. It is also the case of the learned counsel for the petitioners that though this court was pleased to hear argument, advanced by the learned counsel for the petitioners at length on the last occasion and although this court was also pleased to hear the argument, offered from the side of respondent too to some length but only to adjourn the same on the last occasions on discovering that the demurer, reportedly filed by the respondent/non-applicant was not available with the record for which this court was pleased to direct the Registry to place on record demurer immediately so that the hearing of remaining part of the argument from the side of respondents could be completed without further delay.

6. In that connection, my attention has again been drawn to the order dated 16.12.16 passed in this proceeding. For ready reference same is reproduced below: -

*"Mr N. Dasgupta, Mr S.S. Roy and Ms D. Chatterjee, learned counsel for the applicants are present. Mr A. Banerjee and Mr R. Mullick are present representing the respondents.*

*Mr A. Banerjee, learned counsel for the respondents has requested the Tribunal to adjourn the proceeding today stating that he has filed a demurer application objecting the prayers made in this application but the demurer has not yet been registered on some technical grounds and, therefore, could not be brought on record. Unless the same is brought on record, the learned counsel for the respondents would be highly handicapped in projecting the case of the respondents.*

*This contention was opposed to by learned counsel for the applicants stating that already enough time has been granted to the respondents on this and that ground and in that process, the disposal of present proceeding gets delayed considerably.*

*That apart, Hon'ble Supreme Court by its order dated 09.12.2016 has asked this court to hear the company petition including the demurer application filed by the parties and dispose of the same as early as possible.*

*I have considered the submissions. The respondents are directed to rectify immediately the defects, pointed out by the Registry in the demurer application. However, as desired by the parties, the learned counsel for the applicants is heard at length. On the other hand, learned*



*counsel for the respondents is also heard but same remained inconclusive for want of demurer with the record.*

*List this matter on 04.01.2017.*

*In the meantime, the respondents would do the needful in rectifying the defects pointed out in the demurer and thereafter, the Registry will register the same in accordance with the prescription prescribed."*


7. The counsel for the applicants/ petitioners, now, submits that he made an enquiry from the Registry and learnt that no such demurer has ever been filed with the Registry, much less same having been registered by the Registry of this court. Referring to some earlier order(s), it has also been stated that the respondent has already been prevented by the CLB, Kolkata from filing any demurer against the application in the present proceeding where the applicants, amongst other things, prayed for the substitution of the legal representative(s) of deceased petitioner in the connected petition.

8. Since no demurer has ever been filed by the respondent/non-applicant, objecting the prayer made in the present application and since the counsel for the petitioners has already advanced his argument supporting the prayer made in the application, since the counsel for respondent/non-applicant could not assign valid reason for not being present before this court today and since the case has been dragging on one ground or other over a long period, the counsel for the petitioners urges this court to close the case and fix the same for final order.

9. On an enquiry being made by this court, it is found that the Registry of this Court has never received any demurer formally from the side of respondents herein. Such information, furnished by the Registry of this Court supports the claim of the petitioners/<sup>applicants</sup> that the respondents had never filed any demurer objecting prayer made of the application seeking substitution of legal heirs of deceased petitioners in the company petition.

10. In view of above and also having regard to the various order(s) passed in the proceeding in hand including the order rendered by this court on 16.12.16, the case posted on 12.01.2017. On that day, the counsel for the respondent/non-applicant, if he so desires, may advance the argument on behalf of the respondent but only on law point(s).

11. However, in view of our foregoing discussions, I make it clear here that the non-applicant /respondent would have no right, whatsoever, to file any demurer against the application in hand.

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