

NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, MUMBAI

T.C.P No.48/(MAH)/2013  
CA No. 209/2013

CORAM:

Present:

SHRI M. K. SHRAWAT  
MEMBER (J)

SHRI BHASKARA PANTULA MOHAN  
MEMBER (J)

ATTENDENCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF  
THE NATIONAL COMPANY LAW TRIBUNAL ON 11.01.2018


NAME OF THE PARTIES: Mr. Hanif Gulamal Somji & Ors.  
V/s.

M/s. Nasik Trading Pvt. Ltd.

SECTION OF THE COMPANIES ACT: 397/398 of the Companies Act 1956  
and 241/242 of the Companies Act, 2013.

S. No.	NAME	DESIGNATION	SIGNATURE
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1.	Anagha Anasingaraju	PCS for Respondent No. 1, 2, 3, 6, 7, 9 to 15	
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*Anagha*  


2.	Bala Madan	P.G. in firm	
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3.	Shardul Singh	Petitioner	
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*Shardul*  


Adjudged & 11/1/2018

**ORDER**  
**TCP 45 TO 53/CLB/MB/MAH/2013**

1. A Praeipe was moved on 09.01.2018 and mentioned in the Court on 10.01.2018 on the ground of urgency due to alleged arrest of one of the family members of the Petitioner in all these Petitions. It was directed to circulate the Praeipe on the other Side and to inform the next date of hearing, i.e. today the 11<sup>th</sup> January, 2018. Learned Representatives of both the Sides are present and Heard.

(Contd...2.)

2. From the side of the Applicant Learned Representative has informed that the Respondents have persuaded the Police Authorities to take action against the Petitioner and also against the family members. He has drawn our attention on a news article dated 08.01.2018 appearing in the newspaper "Pune Mirror" that "Foreign Investor duped of his money by Pune Realtor". It is reported that four years after FIR the Police Authorities have made First arrest in a real estate fraud case. Further it is reported that a Canadian Businessman and his Wife's ₹15 crores was used to buy land parcels in personal names instead of in the name of the Company. Learned Counsel has vehemently pleaded that in a situation when the impugned land transaction is sub judice before NLCT Bench, Mumbai, hence there was no reason for the Respondents to press for arrest of the Petitioner and the family member. Further, Learned Representative has drawn our attention on a direction passed by this Bench dated 28.09.2017 and pleaded that on the same lines if protection is granted to the Respondents then the same protection be granted to the Petitioner as well. For ready reference, relevant para is reproduced below:-

*"It has been informed that the Petitioner has made certain complaints against the Respondents before the Police Authorities. The Petitioner is hereby strictly directed that in respect of the issues which are subjudice before this Court should not be made the basis of compliant (sic) before any other Authority and if there is any compliant (sic) this bench should be immediately informed. Any compliant (sic) so far made should not be pressed, if the matter is connected with the subjudice Petition."*

3. On the other hand, Learned Counsel of the Respondent has pleaded that the issue of forgery was not in fact pressed by rest of the Respondent but only by Respondent No.6. Learned Representative has informed that the said arrest was not because of the persuasion of most of the Respondents but because of the fact that the FIR of fraud and cheating was pending since long hence the Police has taken action. Moreover, the Hon'ble Bombay High Court vide an Order of 15.06.2017

(Contd....3.)

(Criminal Writ Petition No.1095 of 2017), filed by Iqbal Shaikh, has directed to investigate the matter within 8 weeks under the supervision of a Senior Police Officer of the DCP Rank. According to her, it could be the reason for taking action by the Police Authorities.

4. In the light of the statement made by the Learned Representative from the side of the Respondent and also considering the Order passed protecting the Respondents, the equity demands to grant almost the same protection to the other side as well. It shall be fair and justifiable to direct the Respondents not to press for complaint/s pending before any Authority revolving around the issue yet to be settled by this NCLT Bench. In short, the directions as reproduced above shall apply to both the parties. Any decision on the action taken so far by the Police Authorities, as narrated *supra*, is beyond our jurisdiction.

5. As per the notings on the Order Sheet the main Petition is already listed for final hearing on **19.01.2018**.

Sd/-

**BHASKARA PANTULA MOHAN**

Member (Judicial)

Date : 11.01.2018

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Sd/-

**M.K. SHRAWAT**

Member (Judicial)