

Division Bench

NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

C.P No.405/KB/2017

Present: Hon'ble Member (J) Shri Vijai Pratap Singh

Present: Hon'ble Member (J) Shri K.R.Jinan

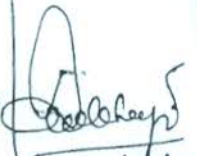
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 10th August, 2017, 10.30 A.M

Name of the Company	Kishore kejiwal & Anr -Vs- Gold Silver Arts Pvt Ltd & Ors.		
Under Section	241-242 O & M		
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

1. Mr. RATNANKO BANERJI, SR. ADVOCATE
2. Mr. SAKTA SEN, ADVOCATE
3. Mr. ASHIS KUMAR MUKHERJEE, ADVOCATE
4. Mrs. SURABHI BANERJEE, ADVOCATE

For

Petitioner


10/8/17

P.T.O.

10/08/2017 – C.P.No. 405/KB/2017 – Gold Silver Arts Pvt. Ltd.

ORDER

Ld. Counsels for the petitioners are present.

Petitioners have filed this petition under Sections 241, 242 and 244 of the Companies Act, 2013 alleging that the respondent no. 1 company, Gold Silver Arts Private Limited was incorporated on or about 27/08/1945. Petitioners' shareholding in respondent no. 1 company is 11.25%.

Petitioners have alleged that at all materials time it was agreed and understood by and between the Garodia and Kejriwal families that shareholding of the company would be continued and maintained in the ratio of 62.5% and 37.5%. Petitioners have further alleged that respondent nos. 2 and 4 are negotiating with 3rd party for the purpose of transferring the tenancy rights in two valuable properties situated at 9, Jagmohan Mullick Lane, Kolkata 700007 and 13/15, Jadulal Mullick Road, Kolkata 700006 in the commercial hub of the city. Respondents have no intention to carry on the business and the

respondents' aims and motive are to close down the business and transfer the business to 3rd party for encashing the substantial goodwill and reputation of the company. The most valuable assets of the company are at present apart from its goodwill, the tenancy right of the properties in respect of the showroom and the factory which are in company's possession. If the respondents are able to transfer and/or surrender the tenancy rights, the company will become a shell company without any effective business whereupon the valuation of the goodwill will also become nil. Hence, for the purpose of protecting and preserving the net worth of the company petitioners have sought injunction restraining the respondents from in any manner dealing with and/or transferring and/or surrendering the tenancy rights enjoyed by the company in respect of the showroom and factory of the company.

It appears from the record that petitioners have filed an affidavit and other documents in support of the petition but in the affidavit only verified paragraph 1 of the foregoing petition, which is relating to particulars of the company.

It also appears from the record that petitioner has served copy of the petition on the respondents and filed affidavit of service which shows that notice was issued on the respondents in the evening at 7.36 P.M. on 09/08/2017 and today is 10/08/2017, probably the notice has not been served on the respondents. Before delivering the notice to the respondents chances of surrender of tenancy rights cannot be ruled out. Petitioners are directed to file affidavit showing that notices are delivered to the respondents. Meanwhile, both the parties are directed to maintain status quo with regard to tenancy right which are available to the respondent no. 1 company.

List the matter on 17/08/2017 for hearing.

sd/-

(K.R.Jinan)
Member (J)

sd/-

(Vijai Pratap Singh)
Member (J)