

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB)-348(ND)/2017

PRESENT: SMT. INA MALHOTRA
HON'BLE MEMBER (J)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING BEFORE NEW DELHI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 17.10.2017

NAME OF THE COMPANY: Sh. Aman Nath Vs. Neemrana Hotels Pvt. Ltd. & Ors.

SECTION OF THE COMPANIES ACT: 241-242

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
	For the Petitioner (s)	: Mr. U. K. Chaudhary, Mr. Arun Kathpalia, Sr. Counsels with Mr. Krishnendu Datta, Mr. Ashish Verma, Mr. Shantanu Parasar, Advocates		
	For the Respondent (s):	Mr. Vivek Malik, Advocate for R-1. Mr. Ashish Dholakia, Mr. Rohan Chawla, Ms. Gayathri Nagendra, Mr. Kishore Kumar, Advocates for R-2.		

ORDER

Notice is accepted by Mr. Rohan Chawla, Advocate, appearing on behalf of the Respondent. Let reply be filed.

Ld. Sr. Counsels for the Petitioner have prayed for grant of ad-interim relief. Attention of this bench is drawn to the alleged acts of illegality attributed to Respondent No.2, whereby she is stated to have unilaterally inducted Respondent No.3 as an Additional Director of the Respondent No.1 company, without convening a proper Board meeting. This was done on the alleged misconception that the Petitioner had been disqualified as a Director in this case.

Notice of this Bench is drawn to a letter dated 12.10.2017, whereby it has categorically been affirmed by the office of the ROC, that the petitioner's ~~his~~ representation was considered and his disqualification has since been recalled.

(Lekh Raj Singh)



Referring to the impugned acts in this case, it is argued that the decisions taken by the newly constituted Board is tainted with illegality, being in complete violation of the provisions of law, as the Additional Director was appointed by Respondent No.2 in her individual capacity and her decision was communicated by an email. Further, it is averred that even in such an event where a sole Director is on the Board, an EGM can be called for passing a Resolution of a one point Agenda i.e. of appointing an Additional Director. In the present case, several resolutions have been passed to the alleged detriment of the company. Ld. Counsel for the Respondent on the other hand has refuted the submissions made on behalf of the Petitioner on the grounds that there is no illegality since as on that date, Respondent No.2, was the only Director of the Respondent company as the Petitioner was disqualified in terms of provisions of Section 174(2) of the Act r/w Section 167(1)(a) of the Companies Act. She also holds the 25% equity (the other 25% equity is held by her brother's trust) and resolutions were passed for conducting the business of the Respondent company.

Be that as it may, the fact that the disqualification of the Petitioner was an apparent error, cannot strip him of his rights, nor vest Respondent No.2 with the right of passing resolutions as done in the present case. Her actions appear to have been made in haste. Without questioning her bonafides, prima facie, her actions can neither be justified, nor be said to be in accordance with law. Accordingly, it is directed that Status Quo Ante 12.10.2017 be restored. All decisions taken subsequent to 12.10.2017 and thereafter are hereby set aside. The Petitioner being a Director shall be on Board for all decisions to be taken henceforth.

Reply be filed by the Respondents within three weeks.

To come up on 16th November, 2017 for final arguments.

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(Ina Malhotra)
Member (J)