

C.P No. 24/(MAH)/2017

CORAM:

Present:

SHRI B.S.V. PRAKASH KUMAR
MEMBER (J)

SHRI V. NALLASENAPATHY
MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 28.11.2017

NAME OF THE PARTIES: IVEM Advisory Services Pvt. Ltd.

V/s.

Mayurpankh Properties Pvt. Ltd.

SECTION OF THE COMPANIES ACT: 241-244 of the Companies Act, 2013.

S. No. NAME DESIGNATION SIGNATURE

(1)

Mr. P.N. Modi Sr. R1
Mr. ~~Har~~ ^{Gopal} Chagla Sr R10, R11

Mr. Samir Malik R1, 10, 11

Ms. Saumya Sharma R1, 10, 11

Mr. Kunal Kataria. R1

(2) Sr. Adv. Mr. Fredun De'Vidre

Sr. Adv. Mr. Mustafa Dochr
Sr. Adv. Mr. Gaurav Joshi
a/w Ms. Kribide Chanderrane,
Ms. Nandini Chitral,
Ms. Tarun Jaiswal and
Ms. Dipanwita Ghosh i/b.
M. Humrenwala

for
the
PETITIONER

Nandini

ORDER

CP No. 24/241-242/NCLT/MB/MAH/2017

On hearing the submissions of either side in respect to giving effect to the resolutions passed in the EoGM dated 16.11.2017, this Bench is of the view that since it is a real estate company and ongoing projects being presently regulated by new enactment RERA, unless projects are timely completed, the company will be put into inconvenience on many fronts. Whereby, to complete those ongoing projects, unless debt funds are released from the banks, it is difficult to complete projects in progress, therefore, for special resolution having already been passed for taking loan from the financial institutions, it is hereby made clear that company can exercise such borrowing right as approved in the resolution dated 16.11.2017.

The Petitioner's main argument is that in R1 Company's Balance Sheet, loans having been shown as given to outsiders without giving any further details of the same, this Bench is sought to look into giving loans to outsiders as unfair on the part of R1 company management. To which, the Respondents' side answers that since they are ongoing projects, R1 Company is required to provide project advance to various contractors linked to this project, for those contractors and other companies being outsiders to R1 Company, such advances would be shown as given to outsiders only. Since it is not the case of the petitioner that such advances are nothing but diversion of funds of the company for unlawful gain to the Respondents in management, just because the petitioner made an allegation that loans have been given to outsiders without giving any details, such allegation cannot be treated as management siphoning the funds of the company. Had the

Contd.....3

petitioner made specific allegation naming the persons to whom advances given without reason, then duty would cast upon to explain such allegation by the Respondents, but no such specific allegation against the Respondents.

List this matter on 15.12.2017 as fixed earlier.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

B.S.V. PRAKASH KUMAR
Member (Judicial)