

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH : HYDERABAD**

C.A.No.184 of 2017 in  
C.P.No.188/241/HDB/2017  
U/S 241 and 242 of the Companies Act, 2013

**In the matter of :**

Mr.Nelakuditi Tirupataiah  
D.No.6-62, rythupeta,  
Nandigama Village & Mandal  
Krishna District.

...Applicant / Respondent No.2

Versus

Mr.Nelakuditi Hari Krishna  
D.No.6-62, rythupeta,  
Nandigama Village & Mandal  
Krishna District.

... Respondent / Petitioner

**Date of Order : 5<sup>th</sup> December, 2017**

**CORAM:**

Hon'ble Shri Rajeswara Rao Vittalana, Member (Judicial)  
Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

**Counsels Present:**

For the Applicant /  
Respondent No.2

: Mr.S.Chidambaram

For the Respondent /  
Petitioner

: Mr.V.R.Avula along with  
Mr.DVAS Ravi Prasad

**Per: Rajeswara Rao Vittalana, Member (Judicial)**



**ORDER**

1. The Company Petition bearing No.C.A.No.184 of 2017 in C.P.No.188/214/HDB/2017 is filed by Mr.Nelakuditi Tirupataiah (Applicant / Respondent No.2) under Regulation 11 of the NCLT Rules by raising preliminary objection on the maintainability of the Company Petition. Since the Petitioner of the Company Petition does not hold minimum percentage of shares as prescribed under section 244 of Company Act, 2013.
2. Heard Mr.S.Chidambaram, Learned Counsel for Applicant / Respondent No.2 and Mr. Mr.V.R.Avula along with Mr.DVAS Ravi Prasad, Learned Counsels for Respondent/Petitioner.
3. The Learned Counsel for Applicant / Respondent No.2 has stated as follows:-
  - i) In order to main Company Petition under section 241 of the Companies Act, 2013, a member should have atleast 10% of the voting share or should represent at least 1/10 of total members of the Company as per Section 244 of the Act. The instant petition is filed by the Petitioner / Respondent no.1, who holds only 100 shares of the Company out of total paid up capital of 11,10,000 shares. This represents 0.000% of the Paid-up Capital of the Company. The instant petition was filed on 25.04.2017 on which day the petitioner does not have the qualification shares to main petition u/s 241 of the Act. The No. of members in the Company is 12. The Annual Return and duly filed by the



Company with the Registrar of Companies displays the shareholding pattern of the Company as on 31.03.2016 and 31.03.2017 which reproduced below:

Sl.No.	Name of the Shareholder	No. of shares held
1.	Nelakudity Hari Krishna	100
2.	Paturi Jaganmohana Rao	100
3.	Nelakudity Tirupataiah	1,500
4.	Nelakudity Kasi Veisweswara Rao	2,000
5.	Nelakudity Rajya Lakshmi	5,14,114
6.	Nelakudity Subhadra	5,87,686
7.	Naidu Padma	1,500
8.	Nelakudity Bhargava Sai	1,000
9.	Nelakudity Gayathri	1,000
10.	Paturi Kiran Sai	250
11.	Paturi Sohith	250
12.	Paturi Vijaya Lakshmi	500



- ii) As could be seen from above the Petitioner/ Respondent does not own 10% of the voting power nor does he represent 1/10 of total number of members of the Company. On this ground alone the petition needs to be dismissed in limine with cost.
- iii) In addition to the above preliminary objections on maintainability, as revealed in para 6 of the Company Petition all the allegations raised in the petition pertains to land, inheritance of land, purchase and sale of land etc. it is humbly submitted that these complaints need to be raised in some other forum and not before this

Hon'ble Tribunal. Hence, the petition needs to be dismissed in limine as some other appropriate judiciary forums are available to the petitioner for raising these issues. It is further pointed out that the issues raised are not in relation to the Company and its affairs.

iv) Therefore, he submit that the Company Petition is liable to be dismissed for want of qualification as prescribed under above section.



4. Instead of deciding on sole issue of maintainability, all the merits of the case would be considered finally, and thus it would be appropriate to direct the Applicant / Respondent No.2 to file a Comprehensive reply covering of all pleadings including maintainability as raised in the present Company Application.
5. Hence, Company Application bearing No.C.A.184 of 2017 in C.P.No.188/241/HDB/2017 is disposed of by directing the Applicant / Respondent No.2 to file Comprehensive reply including the issue of maintainability as raised in the application. We will decide the case soon after filing reply.

*Sd/-*  
**RAVIKUMAR DURAISAMY**  
MEMBER (TECHNICAL)

*Sd/-*  
**RAJESWARA RAO VITTANALA**  
MEMBER (JUDICIAL)

*for* *lh*  
**Dy. Regr./Asst. Regr./Court Officer/**  
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति  
**CERTIFIED TRUE COPY**

केस संख्या  
CASE NUMBER.....*C.A.No. 184 of 2017 in C.P.No. 188/241/HDB/*  
निर्णय का तारीख *2017*  
DATE OF JUDGEMENT.....*5-12-2017*  
प्रति तैयार किया गया तारीख  
COPY MADE READY ON.....*22-12-2017*