

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

CP No. 28/(MAH)/2016

CA No.

CORAM:

Present:

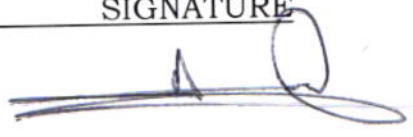


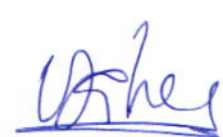

SHRI M. K. SHRAWAT
MEMBER (J)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 30.09.2016

NAME OF THE PARTIES: Mr. Uday Daniel Khare
V/s.

M/s. Nasik Diocesan Trust Association P. Ltd.

SECTION OF THE COMPANIES ACT: 58, 59 of the Companies Act 1956.

S. No.	NAME	DESIGNATION	SIGNATURE
1)	Adv. Anand G. Wale	Advocate For RCS 14	
2)	Adv. AKSHAR BIYANI	Advocate for Petitioners	
3)	Adv. Shubhabrata Chakraborty alw Adv. Darshan Furia from Juris Corp	Advocates for Respondent No. 1 & 2	
4)	Uday D. Khare	Director	
5)	Anand G. More	Director.	

Order

C.P. No. 28/241-242/NCLT/MAH/2016

1. A mention has been made for an interim relief. From the side of the Petitioners Advocate Mr. Akshar Biyani and from the side of Respondent Nos. 1 & 2

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Advocates Mr. Shubhabrata Chakraborty and Mr. Darshan Furia and from the side of Respondent No.14 Advocate Mr. Amol R. Shinde appeared.

2. The Petitioners have filed the Petition on 12th September, 2016 u/s 241 and u/s 242 of the Companies Act, 2013 alleging operation and mismanagement. Ld. Advocate of the Petitioners has pleaded that Respondent No.2, one of the erstwhile Directors of the Trust (Respondent No.1), has convened invalid EGM and involved in wrongful acts. He has also informed that as many as 19 Directors, who were original Directors, were wrongly removed from the directorship. He has also alleged that Respondent No.2 has manipulated digital signatures and submitted the wrong information before the Registrar of Companies fraudulently. He has Also made an allegation that certain new Directors have been inducted without due legal process. He has further pleaded that there is also an attempt to change the registered office of the Company (Respondent No.1). The EGM held on 30th September, 2015 was invalid and deserves to be quashed; Ld. Advocate made a concluding remark.
3. From the side of the respondent No.14, Ld. Advocate has informed that one FIR was registered and action has been taken against Respondent No.2 and his team. He has alleged that some of the Respondents are even absconding. According to his arguments, Respondent No.1 is a Charitable Trust to be governed only by the Bishop of Nashik and Christian community. The Trust is hijacked by Respondent No.2 and other Respondents with ulterior motives causing loss to the Christian society. He has pleaded that the present Directors should be removed.
4. From the side of the Respondent No.1 and Respondent No.2, Ld. Advocate has defended the action of appointment of Directors and the activity carried on by the Trust. He has also challenged the *locus standi* of the Petitioners on the ground that the Petition under consideration has not been authorised by the requisite number of members of the Trust. He has also pleaded that the Petitioner and the other ex-directors were not managing the affairs of the Trust properly. Therefore, it was decided to remove some of the Directors who have mismanaged the affairs of the Trust. He has also pleaded that the ex-directors have not attended Board meetings and, therefore, they have been removed. He has also informed that members of the Trust have not been removed and only the Directors have been removed.

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5. Allegations and counter-allegations have been made. Heard both the sides on some length. The Petition and the Reply of Respondent No.14 have been perused. Reply of other Respondents is yet to be filed. On due consideration of the facts and the circumstances of the case, it is hereby directed as under:-
- a. Respondent No.1 being a charitable entity and stated to be governed by the provisions of Section 8 of Companies Act, 2013, the persons / directors / office bearers are hereby directed to produce the records of Respondent No.1 alongwith the statement of accounts / account books on the next date of hearing;
 - b. The Registrar of Companies is hereby directed not to incorporate any change in the constitution of the Board of Directors or members hereafter till further orders;
 - c. The Registrar of Companies is directed to furnish a report on the charitable activities carried out by Respondent No.1 and the position of the accounts of three Financial Years ending 31st March, 2014, 31st March, 2015 and 31st March, 2016.
 - d. The Directors or any other person shall not deal in any manner whatsoever with the immovable properties of the Trust Company;
 - e. Both the parties are directed to inform the name, address and telephone number of Rev. Bishop, who is in-charge of the churches of Nashik so that the charitable activity of Respondent No.1 can be streamlined with his consultation;
 - f. The schedule of dates for completion of pleadings has already been fixed by an Order of the NCLT dated 22nd September, 2016, which shall stand as it is without any modification.

Dated: 30.09.2016

Sd/- 
Shri M.K. Shrawat
Member (Judicial)