

**In the National Company Law Tribunal,**  
**Kolkata Bench, Kolkata**

**Company Application No.401/KB/2017**

**In the matter of:**

Bishender Singh .....Petitioner

-Versus-

Khosla Steel Industries Pvt. Ltd. & others .....Respondents

**Order Delivered on 9<sup>th</sup> October 2017**

**Coram:**

**Vijai Pratap Singh, Member (J)**

**Jinan K.R., Member (J)**

For the Petitioner : 1. Mr. Sanjay Kumar Gupta, PCS  
2. Mr. Rohit Kumar Keshri, PCS

For the Respondent : 1. Mr. Akhilesh Kumar Shrivastava, Advocate  
2. Shakeel Mohammed Akhier, Advocate

**O R D E R**

**Per Jinan K.R., Member (J)**

This is an application filed under Sec.241 and 242 of the Companies Act, 2013 who are Directors of M/s Khosla Steel Industries Pvt. Ltd. against the respondents who are also family members of the P-1 and P-2, petitioners in the Company Petition. P-3 and P-4 are the companies viz. Nanak Ispat Pvt. Ltd. and Riya Sales Pvt. Ltd. respectively. Petitioners are allegedly holding 85.38% of shareholding and the respondents No.2 to 4 are holding 10.63% paid up share capital in the respondent No.1 company. A dispute relating to the management of the company is going on for a long time. Some of the family members of R-1 company viz. Pramod Khosla, Ashok Khosla (died) and Shri Kishore Khosla are

the petitioners filed CP No.216/2012 before the Hon'ble Company Law Board. Hon'ble Company Law Board disposed of the petition holding that the respondent No.1 company is to be run by the members of Khosla family by appointing the Board of Directors in a general meeting of the shareholders in accordance with the provisions of law and the outgoing respondents shall be discharged of all personal guarantees and securities pertaining to them and no claim whatsoever shall remain of such respondents in regard to respondent No.1 company. The above order is under challenge in appeal filed by the petitioners and respondents before the Hon'ble High Court at Ranchi. Pending appeal this CP came up for consideration alleging oppression and mismanagement of R-1 company, the respondents.

2. Ld. Counsel for the petitioners prays for an interim order directing the respondent No.1 bank viz. Axis Bank to defreeze the bank account of the respondent No.1 Company for enabling the petitioners to run the company paying off the electricity dues, wages to workers, salary to staff, payment of materials supplied to the company etc. According to the Ld. Counsel for the petitioner, the Bank freeze the account as per letter dated 1/7/2017 intimating that due to mismatch of signature in the MCA portal, the bank account of the company was freezed.

3. Exhibit A/3 is the letter issued by the bank which is under challenge. A reading of Exhibit A/3 it is understood that the Bank took note of mismatch of signatures on account of changing the authorized signatories on account of their change in directorship.

4. The respondents strongly objected the request raised on behalf of the petitioners for de-freezing the bank account as prayed for by the petitioners.

5. According to the Ld. Counsel for the respondents, in view of the Hon'ble Company Law Board order above referred to, this Tribunal could not interfere with the directions which already passed by the Hon'ble Company Law Board and that the petitioners as well as the respondents filed appeal against the order of the Hon'ble Company Law Board and it is pending before the Hon'ble High Court at Ranchi.

6. According to the Ld. Counsel for the respondents an appeal also filed by the respondents because of certain anomaly in the final order. It is understood that both the petitioners as well as the respondents challenged the order dated 20/3/2014 of the Hon'ble Company Law Board in CP No.216/2012 before the Hon'ble High Court, Jharkhand at Ranchi in three separate appeals and are still pending before the Hon'ble High Court Jharkhand at Ranchi. However, no data furnished on either side that proceeding before this Tribunal with regard to the instant company petition as against the respondent No.1 company i.e. Khosla Steel Industries Pvt. Ltd. and others is stayed. There is no impediment brought to our notice in continuing with the company petition filed before this Tribunal under Sec.241/242 of the Companies Act, 2013. Moreover, prayer sought for is not at all amounts to interference with the direction of Hon'ble Company Law Board order.

7. This company petition was admitted by this Tribunal vide order dated 7/8/2017 by passing an order of status quo as on date of admitting the company petition. upon hearing the arguments submitted on both sides and

considering the contention raised by the petitioner in the company petition it is understood that another company petition No.163/2015 filed before the Hon'ble Company Law Board was disposed of by passing final order dated 10/1/2016 issuing certain defections to be complied by ROC, Bihar. Alleging non-compliance of the direction a contempt application No.341/KB/2017 filed by the petitioner is pending before this Tribunal for initiating action against the ROC, Bihar.

8. It is learnt that mismatch of signatures of directors brought to the notice of the Bank by R-1 because of the changes in the name of directors not being done in pursuance of the directions of the Hon'ble Company Law Board in Company Petition No.163/2015. An appeal was preferred by the respondents against the order in CP No.163/2015 before the Hon'ble High Court at Ranchi and it was dismissed by the Hon'ble High Court.

9. Accordingly, considering the notes of arguments submitted by the petitioners as well as by the respondent it appears to us that petitioners succeeded in establishing a *prima facie* cause of action for running the R-1 company as a going concern.

10. Considering the status quo order as on 7/8/2017 the R-1 company have got over right to operate its account considering the signatures of the directors maintained by the bank as on 7/8/2017. That being so, petitioner's prayer for interim relief that Axis Bank shall de-freeze the bank account of the respondent No.1 company, considering the signatures of directors available with the bank as on 7/8/2017 is liable to be allowed. If such an interim relief is not granted it would cause prejudice and economic loss to the R-1 company and, balance of

convenience at this juncture also favours the petitioner. Accordingly, we grant interim relief directing the Axis Bank to defreeze the bank account of the respondent No.1 company.

11. No order as to costs.

LIST ON 28/11/17.

Sd/- 9/10/17

**Vijai Pratap Singh,  
Member (J)**

Sd/- 9/10/17

**Jinan K.R.,  
Member (J)**

Signed on 9<sup>th</sup> October 2017