

NATIONAL COMPANY LAW TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

I.A. No.36 of 2017

IN

I.A. No.06/Of 2017

IN

T.P. No.26/397/398/GB/2016  
[Arising out of C.P. No.80/2010]

Under Section: 397/398 of the Companies Act, 2013

In the matter of:

Kamakhya Kumar Roy

...Petitioner

-versus-

M/s. Bogidhola Tea & Trading Co. Pvt. Ltd. & Ors.

...Respondents

**Order delivered on 22-12-2017**

**Coram:**

**Hon'ble Mr. Justice P. K. Saikia, Member (J)**

**O R D E R**

This application under Rule 53 of the NCLT Rules, 2016, the same being IA No.36 of 2017 was filed by the respondent No.2 praying for permission to file sur-rejoinder in respect of the rejoinder filed by Sri Sajay Kumar Singh, the applicant in IA No.06/2017, seeking impleadment of his name in place of the name of his father Late Kamakhya Kumar Roy in the cause title of the original company petition, the same being T. P. No.26/397/398/GB/2016 (arising out of C. P. No.80/200), as being the petitioner.

2. In his application, he has stated that this Bench, vide order dated 26-05-2017, inadvertently did not give chance to the respondent No.2/non-applicant to file sur-rejoinder against the rejoinder of Shri Sajay Kumar Singh. He, therefore, urged this Bench that he, being necessary party, be given chance to file sur-rejoinder.

3. In that connection I have perused various orders passed by this Bench. It may be stated that on 15-05-2017, one Mr. S. Sengupta, Additional General Manager of the petitioner company appeared before this Bench claiming that he has necessary authority to represent respondents, namely, respondents No.1,

2 and 4 in the connected proceeding and that in that regard necessary authority has also been produced before this Bench.

4. On hearing Mr. Sengupta and on considering the authority, Mr. Sengupta was allowed to represent the respondents No.1, 2 and 4 in the aforesaid proceeding. Further, on the same day, all the respondents were granted time to file reply and next date was posted on 26-05-2017. On 26-05-2017, one Mr. B. Chakraborty, learned Advocate for the respondents No.1 and 4 had filed reply against the petition seeking substitution of the applicant in question in place of Late Kamakhya Kumar Roy.

5. On the aforesaid date, Mr. P. K. Roy, the respondent No.2 remained present in person, but he did not file any reply nor did he intimate the Bench that he is interested to file reply for which 27-07-2017 was fixed for filing rejoinder.

6. In the meantime, exchange of pleadings was complete and the matter was fixed for hearing. In fact, the matter was heard at length on 12-09-2017. However, thereafter, the applicant has filed the application seeking the following relief/s: -

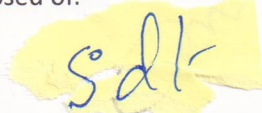
- “(a) Pass necessary Order/ orders allowing the instant application of the Respondent No.2 to file Sur-rejoinder in respect of the Rejoinder filed by the applicant Sri Sanjay Kumar in application seeking substitution under Rule 53 of the National Company Law Tribunal Rules, 2016.*
- “(b) Further, this Hon’ble Tribunal may be pleased to pass other appropriate & necessary orders / directions considering the facts and circumstances of the case as may deem fit and proper.”*

7. It is now well apparent that the applicant was granted sufficient opportunity to file reply to the application in IA No.06/2017 but, he frittered away all those opportunities and now claiming that he was not given any opportunity and, therefore, further urged this Bench to give an opportunity to file sur-rejoinder to the rejoinder filed by the applicant. This only shows that very basis of the application in hand is lacking and, therefore, the same cannot be accepted.

8. Moreover, the hearing in the present application was concluded on 08-09-2017. However, since a talk of compromise was going on between the parties to the dispute, this Bench, on the request of the parties, deferred pronouncement of the order.

10. But then, the present application has been diarized only on 04-07-2017, which was presented before the Registry in proper form only on 10-08-2017, long after conclusion of hearing in the connected proceeding. On this count also, the present application cannot be accepted. Accordingly, the same is rejected.

11. Thus, the present applicant in hand, viz. I. A. No.36 of 2017 stands disposed of.

  
Member (Judicial)  
National Company Law Tribunal  
Guwahati Bench: Guwahati.

Dated, Guwahati, the 22<sup>nd</sup> December, 2017  
*Deka/22-12-2017*