

ATTENDANCE-CUM-ORDER SHEET OF HEARING

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH**

T P No 04/397/398/GB/2016

(C P No.994 of 2011)

With

I.A.No.14/2017

&

T.A.No.29/2016 (C.A.No.369/2011)

Kanubhai C. Patel & Ors.

... Petitioners

-Versus-

Doloo Tea Co. (India) Ltd. and Others ... Respondents

Present: Hon'ble Mr Justice P K Saikia, Member(J)

Date of Order: 19th April 2017.

Name of the Company	Doloo Tea Co. (India) Ltd.
Under Section	397/398

Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date
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ORDER

T P No 04/2016 (C P No.994 of 2011)

Mr S.N. Mitra, Sr. Advocate as well as Mr D.N. Sharma, N. Dasgupta, D. Chatterjee, P. Basu and Mr S.S. Roy, Advocates appear before this Tribunal representing the petitioners. While Mr S. Sen, Mr A. Banerjee and Mr R. Mullick & Mr G. Khandalya, learned counsel represent the respondent No.1, Mr A. Das and Mr N. Sarmah, learned counsel represent respondent No.14. On the other hand, Mr J. Tripathi, learned counsel, represents respondent No.15.

2. Heard Mr S.N. Mitra, Sr. Advocate assisted by Mr D.N. Sharma, N. Dasgupta, D. Chatterjee, P. Basu and Mr S.S. Roy, Advocates. However, due to paucity of time, he could not conclude his argument today but promises to conclude his argument within an hour on the next date.

3. List this matter on 09.05.2017 for further hearing from the side of the petitioners as well as for arguments from the side of the respondents as well.

4. The respondent No.1 has filed some documents under affidavit, copies of which have already been furnished to the petitioners. Registry is directed to register the same in accordance with procedure, prescribed and place the same before this Bench on the next date fixed for filing any objection against the same from the side of petitioners.

5. Mr S. Sen, learned counsel for respondent No.1 prays that the respondent Nos.2, 5 & 6 should be directed to supply a copy of the reply filed by them contending that copies of the replies submitted by those respondents had never been served on the respondent No.1 although in such replies, the respondent Nos.2, 5 & 6 made sweeping but very damaging remarks against the other respondents, particularly respondent No.1 and, therefore, unless the respondent No.1 is given opportunity to file rejoinder to the reply aforementioned disputing the allegations made therein, there is every possibility of respondent No.1 being highly prejudiced.

6. Such a submission was objected to by Mr S.N. Mitra, Sr. Advocate appearing for the petitioners stating that the claim made by the counsel for respondent No.1 is unheard of since a co-respondent has no right to file rejoinder to the reply filed by the other co-respondents.

7. That apart, for some other valid reason, the submission made by Mr Sen cannot be accepted. In that connection, it has been stated that this proceeding was initiated before the CLB, Kolkata as back as 2011 and respondent Nos.2, 5 & 6 therein had filed reply long back. More importantly, the learned CLB had duly recorded the receipt of such reply from the side of respondent Nos.2, 5 & 6 as is evident from the order dated 14.10.2015.

8. Since, the order dated 14.10.2015 rendered by CLB, Kolkata in C P No.994 of 2011 is a public document, since the respondent No.1 had all along been attending such proceeding being aided and guided by a battery of advocates, it is not

permissible under the law to give an opportunity to the respondent No.1 to file a rejoinder against the reply submitted by respondent Nos.2, 5 & 6, and that too, at such a belated stage when the proceeding has already entered penultimate phase, same being stage of argument.

9. Learned Sr. counsel further submits that when the order dated 14.10.2015 accepting reply submitted by respondent Nos.2, 5 & 6 was passed in presence of the parties and when such an order is a public document and when the respondent No.1 keeps on attending the CLB regularly, he, now, cannot plead that he was not aware of such a reply having been filed by the respondent Nos.2, 5 & 6.

10. I have considered submissions of both the parties and have found reason to concur with the submissions, advanced from the side of the petitioners. Being so, the prayer, made by Mr S. Sen seeking a direction requiring the respondent Nos.2, 5 & 6 to furnish a copy of reply submitted by them to the respondent No.1 is rejected.

11. The petitioners are directed to submit objection, if any, against the documents submitted by respondent No.1 under affidavit today at least one week ahead of next date simultaneously supplying copies thereof to the respondent No.1

IA.No.14/2017

12. Heard Mr S. Medhi, learned Sr. Advocate assisted by Mr J. Tripathi, Advocate representing the applicant.

13. Seen the application filed by applicant herein seeking his impleadment on the ground that the applicant had purchased the shares of respondent No.7 of/in the company and, therefore, he stepped in to the shoes of said respondent and thus, he became a necessary party to the aforesaid proceeding and unless he is given an opportunity to be on Board, he will suffer irreparable loss.

14. Such contention was opposed to by Mr S.N. Mitra, learned Sr. Advocate appearing for the petitioners stating that the impleadment of the applicant in the connected company petition would cause enormous hardship to the petitioners since despite the connected company petition having been initiated as back as 2011, such a proceeding could not be concluded even today.



15. He further submits that the applicant is not a necessary party requiring this Bench to take him Board in order to decide the dispute in the aforesaid proceeding effectively.

16. I have considered the rival submissions and found reason to conclude that the applicant has stepped into the shoes of respondent No.7 and being so, he is a necessary party.

17. In that view of the matter, the prayer made by applicant is accepted. He be impleaded as respondent No.7.

18. Since, the applicant has admittedly, stepped into the shoes of respondent No.7 and since respondent No.7 had already filed his reply in the present proceeding, the applicant herein cannot be allowed to travel beyond the pleadings filed by the respondent No.7 in the connected company petition.

19. Registry is directed to make necessary amendments to the cause title of the company petition immediately.


20. In the interest of justice, the petitioners are directed to supply a copy of the petition together with the connected documents to the impleaded respondent at least one week ahead of the next date fixed.

21. The I.A. accordingly stands disposed of.

T.A.No.29/2016 (C.A.No.369/2011)

22. List this matter on 09.05.2017 along with the connected proceeding.

nkm


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