

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

CP No 60/2006
(TP No.8/HDB/2016)

U/s 397, 398, 402, 403, 406, 111 and
Schedule XI of the Companies Act, 1956

In the matter of

1. Mr. Girish Gupta,
12-2-713, Nanal Nagar,
Hyderabad – 500 028
2. Mr. Mitesh Gupta,
12-2-713, Nanal Nagar,
Hyderabad – 500 028
3. Mrs. Sheela Gupta,
12-2-713, Nanal Nagar,
Hyderabad – 500 028

... Petitioners

Versus

1. Tirupati Roller Flour Mills Private Limited
Having its Registered office at
13-6-824/1 Karwan Road,
Hyderabad -500 067
2. Mr. Vijay Kumar Goyal
Old No.30, Rajasekharan Street
Mylapore, Chennai- 600 004
3. Mr. Sat Narain Bansal
9-4-86/286, Salarjung Colony,
Hyderabad – 500 008.
4. Mr. Bhushan Goyal
Old No.30, Rajasekharan Street
Mylapore, Chennai- 600 004
5. Mr. Vishal Goyal
Old No.30, Rajasekharan Street
Mylapore, Chennai- 600 004



6. Mr. Ghanshyam Bhati
Flat No.104, Chandra Enclave,
13-6-439/1/A/4, Balaji Nagar,
Gudimalkapur, Hyderabad – 500 028. ... Respondents

Order pronounced on 22.02.2018

CORAM

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

Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

Parties/Counsels Present

For Petitioners: Mr. R. Raghunandan Rao, Sr. Advocate
Mr. S. Chidambaram, PCS
Mr. Naresh Kumar Sangam, Advocate

For Respondents: Mr. P.H. Arvindh Pandian, Sr. Advocate
Mr. Satish Parasaran, Sr. Advocate
Mr. S. Mukundan, Advocate
Mr. T.V.P.Sai Vihari, Advocate



Per: Ravikumar Duraisamy, Member (Technical)

ORDER

The Company Petition bearing CP.No.60/2006 is filed by Mr. Girish Gupta and others against Tirupathi Roller Flour Mills & others, under section 397, 398, 402, 403, 406, 111 and Schedule XI of the Companies Act, 1956 by seeking various reliefs such as to direct the Company to transmit 69570 shares to and in favour of the Petitioners in the manner specified by them in the letter dated 06.06.2006 and also to issue fresh share certificates to the petitioners in respect of their entire shareholding etc.

2. The Company is not at all having any business activity except some landed property stand in the name of the company, which is bone of the contention among the shareholders and it has to be resolved in the present Company Petition. In order to settle the issue, the then Company Law Board by an order dated 18.02.2009 has appointed M/s Harinath & Associates, Hyderabad to take inventory of the plant and machinery, stores, spares, tools and under the removed items available in the office and factory premises of the company and submit its report by 15.03.2009. So much time has lapsed since filing of the case and thus it is necessary to find the properties of Company and its value so as to decide the issue.
3. As stated supra, the only issue remains to be decided is as to how the property of the Company to be apportioned between the contending parties. By reading the pleadings of both the parties, there is no dispute with regard to the substantive shareholding of both the parties. There are two groups in the company petition namely Mr. Vijayakumar Goyal which is referred to as VKG Group with 51.66% and 46.28% with Nirmal Kumar Gupta, which is referred to as NKG Group and others 2.06% in the total paid up capital of the Company. As the above shareholding pattern of both parties is not in dispute and the apportionment of property is ultimately only question to be decided, we feel that it would be just and proper to ascertain the actual value of the properties held by the Company by competent property valuers to be appointed by Tribunal.
4. Heard Mr. R. Raghunandan Rao, Learned Senior Counsel, Mr. S. Chidambaran, the Learned Practicing Company



Secretary and Mr. Mr. Naresh Kumar Sangam, learned Counsel for the Petitioners and Mr. Arvind Pandian and Mr. Parasaran, the Learned Senior Counsels, Mr. S. Mukundan and Mr. T.V.P. Sai Vihari learned Counsels for the Respondents. Learned Senior Counsel for the Petitioners had opposed the appointment of Valuer by inter-alia contending that in view of status quo order passed by City Civil Court in OS No.328 of 2005, the property of Company cannot be sold, and thus no purpose would be served by appointing Valuer. The Learned Senior Counsels for the Respondents submit that since there is a hardly any dispute for shareholding of both parties, it is only property and its value that has to be ascertained and to be apportioned ultimately between them. Therefore, they have urged the Tribunal to appoint competent Valuers for the same.

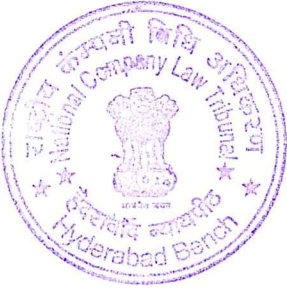


5. As per Companies Act, 2013, the present case, which has been initiated under the provisions of erstwhile Companies Act, 1956, and transferred to this Tribunal, has to be decided as if it is filed under analogous provisions of new Companies Act, 2013. As per section 430 of Companies Act, 2013, no civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter, which the Tribunal or Appellate Tribunal is empowered to. Admittedly, the subject issue falls within the jurisdiction of this Tribunal to adjudicate. Hence, the contention of respondent in this regard is not correct.
6. In view of the above facts and circumstances of the case and in order to decide the issue in question, we have decided to appoint an Auditor to arrive at fair value per share of the

Company, so that the value of the properties of the Company can be suitably apportioned between the contending parties since the shareholding of both the parties are broadly not in dispute.

7. Therefore, we are passing the following Order:-

- a) Hereby appointed Mr. Koganti Prashant, Chartered Accountant (Mobile No. 90000 88122) of M/s Koganti Associates, to arrive at fair value per share of M/s Tirupathi Roller Flour Mills Private Limited.
- b) We hereby directed both the parties to extend full cooperation and assistance to the Auditor and provide required details to enable him to complete the assignment. The Auditor also can take such technical assistance as required.
- c) The remuneration of the Auditor is fixed at Rs.75,000/- (Rupees Seventy Five Thousand only) plus applicable taxes, which is to be borne by both the parties equally.
- d) The Auditor is directed to submit his report within a period of 2 (two) months from the date of receipt of copy of this Order.
- e) Post the matter on 17.05.2018.



SD/-
RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

SD/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

G. Ananth Rao
for Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY

केस संख्या... 1916-69/2016 (JPX-6.8/HTB/2016)
निर्णय का तारीख... 22.2.2018
DATE OF JUDGEMENT... 22.2.2018
प्रति तैयार किया गया तारीख... 16.3.2018
COPY MADE READY ON... 16.3.2018