

NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH: GUWAHATI

I.A. No.44/2017

In

T. P. No.25/397/398/GB/2016
(C.P. No.992 of 2011)

Under Section: 397/398 of the Companies Act, 1956

In the matter of:

Deba Kumar Hazarika & others	... Petitioners
-versus-	
Assam Chemicals & Pharmaceuticals (P) Ltd., & others	... Respondents

And

In the matter of:

Smt. Saraswati Baala Das	... Applicant/ Petitioner (No.18)
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Order delivered on 21-11-2017

Coram:

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

For the Applicant/Petitioner No.18	:	Mr. H. S. Kalsi, Advocate
For all the Petitioners	:	Shri A. K. Srivastava, Advocate Mr. Abhijit Baruah, Advocate
For Respondents No.3 & 4	:	Mr. A. K. Chaudhury, Advocate Mr. A. K. Roy, FCS
For Respondents No.6 to 10, 13 & 14	:	Mr. A. Das, Advocate
For Respondent No.15	:	Mr. R. K. Mitra, Advocate Mr. D. Goswami, Advocate

ORDER


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

This application has been filed by the petitioner No.18 stating the following facts in Para 3 of the application. The said Para 3 of the application is reproduced below: -

3. FACTS OF THE CASE:

- I. That this is an application, inter-alia, seeking striking off of the applicant from amongst the petitioners in the instant company in the instant company petition originally numbered as C.P. No.992/2011 (Deba Kumar Hazarika –versus- Assam Chemicals and Pharmaceutical Private Limited), which has been subsequently renumbered as T.P. No.25/2016 after the same was transferred before this Hon'ble Tribunal.
- II. That the applicant is one of the petitioners in the present Company petition and has been arrayed as Petitioner No.18. Petitioner No.1, Shri Deba Kumar Hazarika misrepresented the facts to him and lured into being one of the petitioners in the Company Petition No.992 of 2011. The petitioner No.1 told the present applicant that he was initiating the present litigation for the benefit of the Company and being unaware and ignorant of his evil designs to bring about unrest in the affairs of the Company, the applicant had consented to stand by him and be a part of this litigation as one of the petitioners.
- III. That the applicant respectfully states that he was not even handed over a copy of the petition and the documents annexed thereto and therefore, he was totally unaware as to how the petitioner no.1 had represented the facts before this Hon'ble Tribunal.
- IV. That, now the applicant has realized that Shri Deba Kumar Hazarika had misrepresented the facts before the applicant and he has filed this instant petition only in order to fulfill his personal interest of being the Managing Director of the Respondent Company and carry out his evil designs to the detriment of the interests of the Company.
- V. That the applicant respectfully states that recently, a fellow share holder told the applicant that the hearings on the present case was going on before this Hon'ble Tribunal and also about what was transpiring in the hearings. Having realized so, the applicant no longer desires to continue being a part of this litigation as a petitioner and hence, has filed this present application praying for striking off of his name from amongst the petitioners of this present case.
- VI. That the applicant states that, being a share holder in the company, he has vested interest in the Company and as such if this application is not allowed and his name is not struck off from amongst the petitioners of this instant case, he would lose his self-respect, which would be an irreparable loss and injury to him, which cannot be compensated in terms of money.
- VII. That the applicant begs to state that this Hon'ble Tribunal is empowered to strike off the name of any person at any stage to a proceeding, if deemed fit.
- VIII. That the applicant begs to state that this application has been filed at the earliest opportunity available to the applicant and that there is no deliberate delay and/or laches occasioned on the part of the applicant in approaching this Hon'ble Tribunal with this instant application.
- IX. That the applicant states that the balance of convenience and the prima facie case are in his favour.
- X. That this application is made bonafide and for the ends of justice."

2. In view of the above, the applicant desires her name to be struck off from the cause title of the proceeding being T. P. No.25/397/398/GB/2016 arising out of C.P. No.992 of 2011.
3. In this connection, I have heard Mr. H. S. Kalsi, learned counsel appearing for the applicant herein (petitioner No.18 in T. P. No. 25/397/398/GB/2016 arising out of C.P. No.992 of 2011), Mr. A. K. Srivastava assisted by Mr. Abhijit Baruah, learned counsel for the other petitioners as well as the learned counsel appearing for the respective respondents.
4. On hearing the learned counsel of the parties and perusal of the records, the name of the applicant herein, being the petitioner No.18 in the aforesaid case, is hereby struck off from the cause title of the petition.
5. Accordingly, the Interlocutory Application filed by the applicant being petitioner No.18 in the main petition i.e. T.P. No.25/397/398/GB/2016 arising out of C.P. No.992 of 2011 is allowed, with the direction to the Registry to rectify the cause title of the petition in accordance with prescription provided in NCLT Rules, 2016.
6. Thus, I. A. No.44 of 2017 in T.P. No.25/397/398/GB/2016 arising out of C.P. No.992 of 2011 is disposed of.
7. A certified copy of this order be furnished to all concerned.



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

Dated, Guwahati the 22nd November, 2017

Deka/22-11-2017