

IN THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH

AT HYDERABAD

CA. No 07 of 2016

In

CP. No. 34 of 2008

In

(TP. No 26 of 2016)

Under Section 241, 242 r/w 420 of the Companies Act, 2013.

R/w Rule 11 and Rule 82 of NCLT Rules, 2016

In the Matter of:

1. Mr. Ravi Sanghi
S/o Late Mr. Ram Sharan Sanghi
Sanghi Nagar, R.R. District
Telangana, 501511.

2. Mr. Gireesh Kumar Sanghi
S/o Late Mr. Ram Sharan Sanghi
Sanghi Nagar, R.R. District,
Telangana, 501511.

...Petitioners

Versus

1. M/s Sanghi Poly Zips Private Limited
Omerkhan Daira, Village Koheda,
Ranga Reddy District, Telangana, 501511.

2. Mr. Anand Prakash Sanghi
S/o Late Mr. Ram Sharan Sanghi
4-3-352, Bank Street,
Sultan Bazar,
Hyderabad, 500095.

3. Mr. Sudhir Sanghi
S/o Late Mr. Ram Sharan Sanghi
4-3-352, Bank Street,
Sultan Bazar,
Hyderabad, 500095.



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OF THE ORIGINAL**

4. Mrs. Usha Sanghi
W/o Mr. Sudhir Sanghi
4-3-352, Bank Street,
Sultan Bazar,
Hyderabad, 500095.
5. Mr. Siddharth Sanghi
S/o Mr. Sudhir Sanghi
4-3-352, Bank Street,
Sultan Bazar,
Hyderabad, 500095.
6. Mrs. Anjana Sanghi
W/o Mr. Anand Sanghi
4-3-352, Bank Street,
Sultan Bazar,
Hyderabad, 500095.
7. Mr. Amit Sanghi
S/o Mr. Anand Sanghi
4-3-352, Bank Street,
Sultan Bazar,
Hyderabad, 500095.
8. Ms. Swati Sanghi
D/o Mr. Anand Sanghi
4-3-352, Bank Street,
Sultan Bazar,
Hyderabad, 500095.
9. Mrs. Reeta Sanghi
W/o Amit Sanghi
4-3-352, Bank Street,
Sultan Bazar,
Hyderabad, 500095.
10. Mr. A. A. Narayanamurthy
4-3-352, Bank Street,
Sultan Bazar,
Hyderabad, 500095.
11. Mr. Sunil Pareek
4-3-352, Bank Street,
Sultan Bazaar,
Hyderabad, 500095.



...Respondents

Order delivered on: 28.08.2017

CORAM:

Hon'ble Mr. Rajeswara Rao Vittanla, Member (Judicial)
Hon'ble Mr. Ravikumar Duraisamy, Member (Technical)

Counsels for the Petitioners: **Mr. S. Chidambaram**
Mr. Ch. Ramesh Babu

Counsels for Respondents : **Mr. Y. Suryanarayana**
Ms. Deepthi Anand
Mr. A. Chakrawarthy

Per: Ravikumar Duraisamy, Member (Technical)

Order

1. The CP. No. 34 of 2008 was initially filed before the Hon'ble Company Law Board (CLB), Chennai Bench, Chennai. Since the National Company Law Tribunal (NCLT), Hyderabad Bench, has been constituted for the cases pertaining to the states of Andhra Pradesh and Telangana the case is transferred to the Hyderabad Bench of NCLT, and we have taken the case on records of NCLT, Hyderabad Bench and deciding the case.
2. The Petitioners have filed the above said Company Petition under Sections 397, 398, 235/111, r/w Schedule XI and other applicable Provisions of the Companies Act, 1956 for oppression and mismanagement in the affairs of M/s Sanghi Poly Zips Private Limited, R1 Company inter alia seeking the following prayers:
 - a. Declaration that the alleged removal/resignation of the first Petitioner on 30.03.2001 from the board of the 1st Respondent as illegal, null and void.
 - b. For a declaration that the resolutions passed at the Board Meetings/ General Meetings which have been manipulated by the Respondents with respect to shareholding/ Directorship/ vesting themselves with



authority as illegal, null and void and not binding on the 1st Respondent Company,

- c. For a declaration that the alleged amendment to the Articles of Association as illegal, null, and not binding on the 1st Respondent Company,
- d. For a declaration that the third Respondent is unfit to continue as Director of the first Respondent Company on account of the gross breach of fiduciary duty by the third Respondent and the various manipulations and fraudulent actions initiated by him,
- e. For a declaration that Form 32 dated 01.10.2007, 21.02.2008 and 04.03.2008 filed before the Registrar of Companies, Hyderabad reflecting the appointment of Respondents second, four, six to nine as Directors as illegal, null and void,
- f. Consequently for a permanent injunction restraining Respondents 2 to 9 from functioning or acting as Directors of the first Respondent Company or holding themselves out as Directors of the first Respondent Company,
- g. For declaring the manipulation in the shareholding of the first Respondent Company as shown in the Annexure as illegal, null and void and further declaring the transfers of shares shown in the Annexure as null and void,
- h. For a declaration that Form 18 dated 22.02.2008 filed by the second and third Respondents showing the shifting of Registered Office from Sanghinagar to the Corporate Office at Hyderabad is illegal, null and void.

3. That the First Respondent Company was originally incorporated on 09.04.1985 and having its Registered Office at Omerkhan Daira, Village Koheda, Ranga Reddy District, Telangana – 501511. The Respondents 2 and 3 have now manipulated and fabricated to file Form No: 18 before ROC at Hyderabad illegally showing the present



registered office of the Company as having shifted to 4-3-352, Bank Street, Sultan Bazar, and Hyderabad 500095.

4. The Petitioners submit that the first Respondent Company is a part of the Sanghi Group of Companies situated at Sanghinagar. The Petitioners and the Respondents 2 and 3 are brothers. The entire township of Sanghinagar came to be established only because of the existence of the Sanghi Group of Companies. The incorporation of the Company and the factory operations had been looked after by the Petitioners. The father of the Petitioners and Respondents 2 and 3 was the chairman of most of the Companies formed under the banner of Sanghi Group.
5. That factual issues submitted by 1st Petitioner are as follows:
 - i. That 1st Petitioner had filed the above Petition along with the 2nd Petitioner Mr. Gireesh Kumar Sanghi on account of the serious manipulation and mismanagement in the Companies which are involved in CP's 25 to 35 of 2008. These Companies were holding shares in M/s Sanghi Industries Limited (SIL), a public listed Company, which had been nurtured, promoted, controlled and managed by Mr. Ravi Sanghi since its inception. In fact at the time when these Petitions were moved in June 2008, there was an undertaking given by the Counsel for the Respondents that the share of SIL would not be sold or dealt with or encumbered. In fact, this undertaking which was recorded on 24.06.2008 was subsequently confirmed in the orders of CLB dated 23.10.2008 and 28.10.2009. It is on record that it is the 1st Petitioner who had been prosecuting these Petitions by filing various applications and had been keen on protecting the interest of the Group Companies. Though the 2nd Petitioner had also supported the first Petitioner in these matters, he had played no active role in prosecuting these matters before the CLB. The Respondents in CP No. 75 of 2008 were creating trouble in respect of M/s SIL and therefore CP. No. 75 of 2008 came to be filed



seeking certain limited reliefs. Likewise, M/s Sanghi Polyesters Limited, (M/s SPL) was completely mismanaged by the Respondents and hence CP. No. 77 of 2008 also came to be filed for saving the said Company.

ii. That, while all the above Petitions were pending and the sale of SIL shares to 3rd Parties were also protected through the interim orders, the matters were in a state of limbo from 2011-2015 when these matters were transferred to NCLT. In the meanwhile, Mr. Anand Sanghi just before he passed away on 2nd March 2015 had settled the matter with the 1st Petitioner which not only helped in saving Sanghi Spinners India Limited (SSIL), a Company which was controlled and managed by Mr. Anand Sanghi and his family (CP. No. 26 of 2008) but also paved way for settling the debts of SSIL and also release of the personal guarantees of Mr. Gireesh Kumar Sanghi and Mr. Sudhir Sanghi.

6. That Petitioner No.1 has submitted Company Application (CA. No. 07/2016) on 08/11/2016 in this CP. No. 34 of 2008 praying the Hon'ble Tribunal to permit the Petitioner to withdraw the CP. No. 34 of 2008 with liberty to file any fresh Petition as and when necessary in terms of Section 241, 242 read with 420 of the Companies Act, 2013 and r/w Rule 11 and 82 of the NCLT Rules 2016.

7. That the reasons for withdrawal is that as all the Companies, which are the 1st Respondent in CP No's 25-35 and CP. No. 77 of 2008, except in CP. No. 26 of 2008 (SSIL), are completely defunct and especially since the important Company in the Group M/s Sanghi Polyesters Limited, which was fully managed by Mr. Sudhir Sanghi and his son Mr. Siddharth Sanghi, has been since wound up by the Hon'ble High Court of Hyderabad, thus the fundamental cause of action in pursuing these matters having undergone a sea change, the 1st Petitioner was keen on withdrawing the CP's as the gravamen of these Petitions were non-existent. It is further submitted that the various final reliefs in each of



these Petitions which are enclosed for the ready reference would clearly show that these reliefs are not worth pursuing in view of the present condition of the various Companies.

8. The objections are raised on filing of CA. No. 07/2016 by Co-Petitioner by filing a counter dated on 17.11.2016 which is summarised as follows:
 - a. That the withdrawal application is not bonafide,
 - b. That all the 4 brothers in the Sanghi Group hold 25% each in all Group Companies which is reflected in the orders date 14.10.2008 and 23.10.2008 as well as the submission made by the Counsel as recorded in the order dated 17.10.2009.
 - c. That the 1st Petitioner and Mr. Anand Sanghi have entered into a secret agreement without informing the other brothers which would alter the complexion of the case and would be detrimental to the other brothers.
 - d. That the application is directed against Mr. Gireesh Kumar Sanghi and to his detriment and that the application for withdrawal has been filed clandestinely which is nothing but back stabbing.
 - e. That the 1st Petitioner has no right to withdraw the Petition unilaterally without written consent of the Co-Petitioner since the original cause action for the raising of the joint Petition has not come to an end.
 - f. That the 1st Petitioner has turned against Mr. Gireesh Kumar Sanghi and exchanged confidential information with the other Respondents which amounts to betrayal and breach of trust.
 - g. That under the NCLT Rules unless both the Petitioners consent, the Petition cannot be withdrawn and in the present case the co-applicant would like to pursue the Petition to its logical end. Etc...
 - h. The act of the 1st Petitioner without amicably settling the matter with all the brothers is a wilful contempt of order dated 17.10.2009.



9. That Counters have also been filed by Respondent No. 3 on 18.11.2016 and Respondent No 5 on 25.11.2016. The thrust of the counters are all focussed on the settlement between the 1st Petitioner and Mr. Anand Sanghi (Respondent No.2) and his family and reliance is placed on the interim orders passed by the Hon'ble Company Law Board.
10. That the 1st Petitioner has filed his written submission in reply of Counters made by 2nd Petitioner and Respondent No. 3 and 5. It is further submitted that all allegations made by 2nd Petitioner are denied by him. It is submitted that there is no lack of bonafides in the Applications for withdrawal submitted by the 1st Petitioner and the same is baseless. The allegation that the withdrawal is directed against the 2nd Petitioner or that it has been clandestinely filed in per-se false since the said application has been filed after serving all the parties to the proceedings.
11. That the 1st Petitioner is fully entitled to withdraw the Petitions and the 2nd Petitioner cannot hold the 1st Petitioner to ransom in this regard. And it is also submitted that there is no confidential information exchanged with the other Respondents as alleged and there is no question of betrayal and the present Applications for withdrawal have been filed in accordance with the rules of the NCLT and there is no requirement under the Rules that all the Petitioners must consent for withdrawal of the Petition.
12. It is submitted that allegations made in counters filed by Respondent No. 3 and 5 are denied by 1st Petitioner and it is further stated that it is ridiculous on their part to oppose the withdrawal, which only tantamount to their confirming that the reliefs sought against them can be allowed. As Respondents against whom various reliefs have been sought in these Petitions, they have no locus standi to oppose the withdrawal.



13. It is submitted by the 1st Petitioner that for all the above mentioned reasons, this Hon'ble Tribunal may be pleased to allow the Withdrawal applications filed by the 1st Petitioner.

14. We have carefully perused all the submissions of the Petitioner 1 and 2 and Respondent 3 and 5. The settlement of the 1st Petitioner was with Respondent No.2, Mrs. Swathi Sanghi and Mr. Amit Sanghi who are the legal heirs of Respondent No.2 and with Mrs. Anjana Sanghi who is the wife of Respondent 2. These Respondents have not filed their submissions in response to the withdrawal Petition of the 1st Petitioner as expected, whereas the Co-Petitioner and other Respondents have submitted their counters vehemently opposing the withdrawal of the application filed by the 1st Petitioner as stated supra.

15. It is submitted by Respondent No.5 in his counter to CA. No. 07 of 2016 that CLB, Chennai Bench has passed a common Interim order on 23.10.2008 and the relevant portion of it is extracted herein below.

“With a view to ensure amicable solution for the disputes and in the paramount interest of Sanghi Group of Companies, it is hereby directed that:

- a. Both the parties shall maintain the present status quo in regard of their shareholding and also fixed assets of all Companies in Sanghi Group of Companies until further orders and
- b. Any transfer of shares in Sanghi Group of Companies by either parties, in the interregnum period, would be null and void.”

16. It is submitted that when all the brothers have agreed to come for a settlement and when the CLB was seized of the ongoing compromise/settlement, the Petitioner No.1 and the Respondent No.6, 7 and 8 who are legal representatives of Respondent No.2 have clandestinely at the back of the other Respondents and Petitioner No.2 have carved out an understanding for settlement without the knowledge/



consent of the other parties involved in the matter. Neither the understanding nor the details of the terms of the settlement have been furnished either to the Hon'ble CLB or to the other parties. Thus the settlement between the Petitioner No.1 and Respondent No.6, Respondent No.7 and Respondent No. 8 is not at all bonafide and is totally detrimental to the interest of the other parties including all the Sanghi Group of Companies. It also came to the knowledge of the answering Respondent that pursuant to the settlement carved out between the Petitioner No.1 and Respondent No.6, Respondent No.7 and Respondent No.8 they have transferred the shares of the Sanghi Group of Companies among themselves in gross violation of the order of CLB, (including the shares of Sanghi Industries Limited which is Listed Company, in gross violation of the SEBI Takeover Code) and in that process they have forged, falsified, fabricated and tampered with the various official and statutory records and registers of the various Sanghi Group of Companies. The extent of fraud played by the Petitioner No.1 along with Respondent No.2 can be gauged from the fact that 54,12,800 shares of Sanghi Industries Limited held by Sanghi Polyesters Limited, a Company under liquidation have been sold on 19.12.2014 by the Respondent No.2 to the Petitioner No.1 after the appointment of the official liquidator vide order dated 16.09.2014 passed by the Hon'ble High Court in Company Petition No. 42 of 2010 which is a serious offence punishable under the Act. It is further submitted that the shares of Sanghi Spinners (India) Limited have been transferred in blatant violation of the orders of the CLB by the Petitioner No.1 and Respondent No.6, Respondent No.7 and Respondent No.8 themselves.



17. The above transfer of shares between the 1st Petitioner and other Respondents are in violation of the CLB order dated 23.10.2008 and 17.10.2009. All these acts are in clear violation of CLB's order and in view of the same the Respondents also sought to take action against the

1st Petitioner for Contempt of court order and they have also filed their contempt cases against the 1st Petitioner, in the Hon'ble High Court, Hyderabad and submitted that 1st Petitioner has not come with clean hands to the Tribunal.

Further as stated above a total of 13 Company Petitions were filed by 1st Petitioner under Section 397/398 of the Companies Act, 1956 and Respondent No.3 along with Respondent No.2 had filed 4 Company Petitions under the same Sections. In the above background all the cases are interconnected/ interlinked and having a bearing on each other. Therefore, in the above background we are of the prima facie view that the withdrawal application filed by 1st Petitioner lacks merit and cannot be acceded to. In addition to the Respondents even the Co-Petitioner did not support withdrawal of the main Company Petition i.e. CP 34 of 2008. It is also observed that the main Company Petition was instituted in the year 2008 along with the 2nd Petitioner Mr. Gireesh Kumar Sanghi. However, after a gap of eight (8) years the 1st Petitioner alone wishes to withdraw from the main Company Petition that too after violating the CLB order dated 23.10.2008 and 17.10.2009.

18. While perusing the reliefs sought by Petitioner No.1 and Petitioner No.2 against the Respondents, it is noted that all are pertaining to/ against the R1 Company, Board of Directors/Shareholders and not against a particular individual/Respondent where in it can be settled between the Petitioner No.1 and the particular Respondent. Questioning resolutions passed at Board Meetings/ General Meetings, amendment of Articles of Association (AOA), manipulation and fraudulent actions, appointment of various Respondents as Directors, manipulation in shareholding of R1 company, transfer of shares of R1 Company, shifting of Registered office etc. are of collective decisions of board of directors/ shareholders and by mere settling with few individuals/Respondents and thereby



seeking to withdraw CP. No 34 of 2008 by this CA. No 07 of 2016, by Petitioner No. 1 lacks merit.

19. That on 31.07.2017, the Respondent No.3 and 5 Mr. Sudhir Sanghi and Mr. Siddharath Sanghi had withdrawn their counters filed on 18.11.2016 in CA. No. 07 of 2016, by way of Affidavit submitting that meanwhile orders were reserved, some developments have taken place and disputes have been settled between Applicant/ Petitioner No.1 and the Respondent No. 3 and Respondent No.5. It is further submitted that the matters and dispute between 1st Petitioner and them have been fully and amicably settled and have no objection to the withdrawal of affidavit filed by the 1st Petitioner.

20. At this juncture it would be appropriate to quote the order passed by Hon'ble National Company Law Appellate Tribunal (NCLAT) in one of the Group Companies of Sanghi Group of Industries as the facts and circumstances are similar i.e. (CA No. 180 of 2017) in CP. No 26 of 2008. In this Appeal the Hon'ble NCLAT has upheld the order dated 26.04.2017 passed by NCLT, Hyderabad Bench in CA. No 11 of 2016 in CP. No 26 of 2008, including non-withdrawal of Company Petition by Petitioner No.1 and the cost levied on Petitioner No. 1 to be paid to Co-Petitioner and other two Respondents of Rs. One Lakh each. Petitioner No.1 and Petitioner No.2 as stated supra filed 11 Company petitions and filed CA's seeking permission to withdraw from all Company Petitions. In view of the Hon'ble NCLAT's order, if the bench passes similar order imposing cost of Rs. One Lack each to Co-Petitioner and other two Respondents, the petitioner No.1 would have to pay Rs.33 Lakhs.

21. In view of Affidavit filed on 31.07.2017, all of a sudden by Respondent No.3 and Respondent No.5 for withdrawal of counters in CA. No. 07 of 2016 in CP. No. 34 of 2008 filed by them on 18.11.2016, we are of the prima facia view that the main reason for filing the above said Affidavit



could be to protect the 1st Petitioner from the substantial cost to be paid to Co-Petitioner and other two Respondents as stated supra.

22. Petitioner filed this CA in addition to the Provisions of Companies Act, 2013 R/w Rule 11 and Rule 82 of NCLT Rules 2016. We would like to reproduce the Rule 11 and Rule 82 for ready reference.

Rule 11 of NCLT Rules 2016: Inherent Powers-

Nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Tribunal to make such orders as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Tribunal.

RULE 82. of NCLT Rules 2016: Withdrawal of Application filed under section 241-

(1) An application under clause (a) or clause (b) of sub-section (1) of section 247 of the Act, shall not be withdrawn without the leave of the Tribunal.

(2) An Application for withdrawal under sub-rule (1) shall be filed in the Form No. NCLT. 9.

23. In view of the above submissions, facts, circumstances, order of Hon'ble NCLAT and as prayed by Mr. Gireesh Kumar Sanghi, the 2nd Petitioner and also by the Respondent No. 3 and Respondent No. 5 previously of Sanghi Poly Zips Private Limited and others, we hold that withdrawal application filed by Petitioner No.1 lacks merit and cannot be acceded to. Further we are also inclined to levy a cost on Mr. Ravi Sanghi, 1st Petitioner in view of mental agony and cost incurred for pursuing the long legal battle by the Co-Petitioner therefore we direct Mr. Ravi Sanghi, 1st Petitioner to pay a cost of Rupees One Lakh to Co-Petitioner, Mr. Gireesh Kumar Sanghi, within a period of 2 weeks from the date of receipt of copy of this order and report compliance to registry.



24. As discussed supra to prevent abuse of the process of the Tribunal, leave is not granted to Petitioner No.1 to withdraw the CP. No 34 of 2008 as prayed in current CA. No. 07 of 2016.

25. With the above directions CA. No. 07 of 2016 in CP. No 34 of 2008 is dismissed.



Sd/-
Ravikumar Duraisamy
 Member (Technical)

Sd/-
Rajeswara Rao Vittanala
 Member (Judicial)

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for *16*
 Dy. Regr./Asst. Regr./Court Officer/
 National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
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 केस नम्बर
 CASE NUMBER. *CA No. 07 of 2016 in CP No 34 of 2008*
 निर्णय का तारीख
 DATE OF JUDGEMENT. *28.8.2017*
 प्रति तैयार किया गया तारीख
 COPY MADE READY ON. *13.9.2017*