

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
NEW DELHI

C. P. NO. 104(ND)16
CA. NO.

CORAM:

PRESENT: SH. R.VARDHARAJAN
HON'BLE MEMBER (J)

SMT. INA MALHOTRA
HON'BLE MEMBER (J)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NEW DELHI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 22.07.2016 AT 10.30 A.M**

**NAME OF THE COMPANY: M/s. Shakuntala Devi Golyan & Anr. V/s. M/s. Crocus Chattels
Pvt. Ltd. & Ors.**

SECTION OF THE COMPANIES ACT: 241/242

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
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1.	Mr. Vinod Gaud, Adv.			
2.	Mr. Vipul Gaud, Adv.			
3.	Mr. Sarvesh K. G. Adv.			
4.	Mr. Tarun Mehta Adv.			
5.	Ms. Shelly Khanna Adv.			
6.	Mr. Fakhim Ahsan Khan Adv.			

Petitioners

Smt. Ina Malhotra
[Signature]

7.	Mr. Arun Kataria, Sr. Adv.			
8.	Mr. Samaksh Gupta, Adv.			
9.	Ranjana Roy Gauri, Adv.			
10.	Abhay Pratap Singh, Adv.			
11.	Pushkar Tamm, Adv.			

Respondent-1-3

P.T.O. →

Common Order

Vide this common order we propose to consider the interim urgent prayer for grant of relief made by the petitioners in CP Nos. 102(ND) 2016, 103(ND) 2016 & 104(ND) 2016. The petitioners have filed Company Petitions invoking the provisions of Sections 241, 242 r.w section 242 of the Companies Act, 2013. Facts are identical in all three petitions and R2 to R4 are common directors of the R1 Company in three petitions, being subsidiaries of the holding company M/s. Nulon Global India Pvt. Ltd.

2. CP No. 104(ND) 2016 is being taken as a lead case.
3. Brief facts of the case are that R1 Company was incorporated on 11.07.1984 having the registered office at Nulon House, 10th Milestone, Eshwar Nagar Mathura Road, New Delhi. The objects of R1 Company were to acquire interest in movable and immovable property including industrial, commercial, residential plots/buildings/apartments. The present fixed asset of the company appears to be an immovable property under lease which generates rental income. The P1 and P2, being husband and wife, were directors since 1987 and inducted their son, R2, in the affairs of the company in 2005.
4. The grievance of the petitioners is that there is total mismanagement in the affairs of the company as well as oppression as the total control is in the hands of their son R2. Though the petitioner

no.1 is an authorised signatory to the bank account, R2 operates and manages the bank accounts and also maintains the records of the company. R3 is the petitioners' daughter-in-law, who they allege has been illegally inducted as an additional director w.e.f 25.11.2014. Similarly it is alleged that R4 has also been appointed as additional director of R1 Company without following any due process of law.

5. The urgency pressed by Mr. Virender Ganda, Ld. Senior counsel for the petitioners is based on his allegations against R2 of siphoning of the income generated in the account of the R1 Company for their personal gains. The company receives rentals from its property from its lessee M/s. Herbal Life Nutrition i.e R6, which is its only source of income. As per mandate, the lessee used to deposit the rent with the account of Respondent No.1 maintained with Canara Bank, Maharani Bagh. A letter has now been received from R6, whereby the petitioners have been informed that in terms of instructions received from R2, the mandate to deposit the rent to the Respondent Company has been changed from Canara Bank, Maharani Bagh to ICICI Bank, New Friends Colony, New Delhi, and in terms thereof, they have remitted the rent for the month of June, 2016 to the newly opened account with the ICICI Bank.

6. Ld. senior counsel for the petitioners apprehends that R2 would siphon off the income being generated by R1 to the detriment of not only the company, but also of its shareholders. To corroborate his submissions, he has relied upon the Balance Sheets and Statements of

Accounts for the financial year 2014-15 to show that how the money had been transferred either to the personal accounts of R3 or as per the statements of the bank accounts, were self drawn. He has also submitted that the P2 last received any remuneration as a Director in 2014 and none thereafter.

7. The respondents have appeared in court today and have prayed for time to file their reply before any interim orders are passed. It is argued by Sh. Arun Kathpalia, Id. Senior counsel for the respondent that there is no pressing urgency as argued on behalf of the petitioner.

8. He has pressed upon this Bench that there has been no significant change in the accounts of R1 Company since the petitioners last signed the Balance Sheet. Even otherwise it is the admitted case of the petitioners that they have not participated in the affairs of the company for several years. Respondent nos.2 and 3 hold the majority of the shares. He has also challenged the maintainability of the present petition on grounds that the respondent no.1 companies had been dropped by the petitioners in proceedings before the Calcutta Bench of the CLB in petition filed in May, 2015 without taking leave of the Bench for re-agitating their grievance vide separate proceedings against them. It is, therefore argued by him, that the present proceedings are not only hit by the provisions of Order 23 of Rule 1 CPC, but also by the provisions of Order 2 Rule 2 CPC.

9. Ld. Sr. counsel for the respondent has therefore urged that it would be expedient to have the respondents file their reply on affidavit before the application can be disposed of.

10. Though the respondents have raised certain legal grounds which merit consideration by this Bench, and therefore it would be in the fitness of things to have their reply on record, as also to ensure that the working of the R1 Company should not be hindered by freezing the Bank Accounts, but at the same time to maintain a balance, this Bench is of the opinion that to ensure that injustice, if any, is not perpetuated upon the petitioners, it would be expedient and equitable to direct the respondent company to file their weekly statement of Income and Expenditure in respect of the affairs of the company and furnish a copy of the same to the petitioner. It is also being directed that there shall be no withdrawals from the bank accounts of the Respondent Company in cash or by way of remuneration or transfer of proceeds to the individual accounts of the R1 and R2 and/or other respondents till further directions.

11. Such directions as above in the interim period shall neither cause irreparable loss nor tilt the balance of convenience in favour of either party.

12. It has been pointed out that a cross-petition has also been filed by the Respondents which is to be listed before this Bench on 01.08.2016.

13. Let these cases also be re-notified along with the cross case on 01.08.2016. The respondents may file their reply in the present

proceeding by the next date of hearing with the advance copy to the petitioners.

Sd/-

(Ina Malhotra)

Member Judicial

Sd/-

(R. Varadharajan)

Member Judicial