

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, MUMBAI  
INTERLOCUTORY APPLICATION NO. 10/2017  
IN  
TCP NO. 88/397, 398/NCLT/MB/MAH/2014**

CORAM: **SHRI M.K. SHRAWAT**  
MEMBER (JUDICIAL)

In the matter of Sections 397, 398 of the Companies Act, 1956  
and Sections 241 & 242 of the Companies Act, 2013.

Mr. Purshotam Vishandas Raheja & Ors. .. Applicants

BETWEEN:

Mr. Purshotam Vishandas Raheja & Ors. .. Petitioners

AND

M/s. Courchevel Trading Private Ltd. & ors. .. Respondents

**APPLICANTS**

1. Purshotam Vishandas Raheja  
84, Nepean Sea Road  
Mumbai 400 006. .. Applicant No.1
2. Ms. Shakuntala Purshotam Raheja  
84, Nepean Sea Road  
Mumbai 400 006. .. Applicant No.2
3. Mr. Jitendra Purshotam Raheja  
84, Nepean Sea Road  
Mumbai 400 006. .. Applicant No.3
4. Mr. Mahesh Purshotam Raheja  
Raheja Regale, 17<sup>th</sup> Floor  
84, Nepean Sea Road  
Mumbai 400 006. .. Applicant No.4
5. Ms. Priti Purshotam Raheja  
84, Nepean Sea Road  
Mumbai 400 006. .. Applicant No.5

informed that the Applicant is about to file an Appeal before the higher forum, therefore, till then the operation of the said Order dated 20<sup>th</sup> of February, 2017 deserves to be stayed.

3. From the other side, at the outset, it was pleaded that the interim applications are delaying the decision on the main Petition. It has also been elaborated that vide an Order dated 4<sup>th</sup> February, 2016 the erstwhile Company Law Board, New Delhi (CP No. 97/MB/2014 and CA No. 21/MAH/2016) has made an observation that applications are not to be heard in peace meal but to be finally decided along with the main Petition. This Petition seeking stay of operation of an Order of the NCLT should not have been filed being in contradiction of the aforesaid observation. He has also pleaded that more than 10 days have passed but no Appeal has been filed; hence deserves no interim reliefs.

4. Having heard the submissions of both the sides, I am of the conscientious view that the aforesaid Order of 20<sup>th</sup> of February, 2017 was an Interlocutory Order simply to make a time gap arrangement. The operation of the said Order is limited to four months only because the impugned leave and licence was directed to be extended for four months. No permanent injunction or final decree was passed by the Bench causing a permanent prejudice or affecting the rights in perpetuity of the Applicant. The Application, therefore, has no substance, especially when the respected co-ordinate Bench, CLB, New Delhi has made an observation that the Applications to be appropriately considered at the stage of final arguments along with the main Petition. This Bench is also aware of the legal position that staying of its own Order should be granted sparingly especially when no permanent prejudice is going to be caused to a party in litigation. In general, the stay of operation of a final judgement is granted at that very moment of pronouncement of judgement so that the

## **RESPONDENTS**

1. M/s. Courchevel Trading Private Ltd  
Vaswani Gardens, Ground Floor  
Behind Atur Terraces  
25, Sobani Road, Cuffe parade  
Mumbai 400 005. .. Respondent No.1
2. Ms. Asha Shrichand Raheja  
Raheja Regale, 19<sup>th</sup> Floor  
84, Nepean Sea Road  
Mumbai 400 006. .. Respondent No.2
3. Ms. Laxmi Shrichand Raheja  
Raheja Regale, 19<sup>th</sup> Floor  
84, Nepean Sea Road  
Mumbai 400 006. .. Respondent No.3
4. Mr. Janak H. Vaswani  
Vaswani Garden  
25, Sobani Road  
Mumbai 400 006. .. Respondent No.4
5. Ms. Renuka vaswani  
Vaswani Garden  
25, Sobani Road  
Mumbai 400 006. .. Respondent No.5
6. Mr. Ravi aswani  
Vaswani Garden  
25, Sobani Road  
Mumbai 400 006. .. Respondent No.6
7. Mr. Gobind Bulchand Vaswani  
Vaswani Garden  
25, Sobani Road  
Mumbai 400 006. .. Respondent No.7
8. Mr. Varun Gobind Vaswani  
Vaswani Garden  
25, Sobani Road  
Mumbai 400 006. .. Respondent No.8
9. Mr. Deepak Tilak Vaswani  
Vaswani Garden  
25, Sobani Road  
Mumbai 400 006. .. Respondent No.9

**PRESENT ON BEHALF OF THE PARTIES**

**FOR THE PETITIONER**

Mr. Vishal Kanade, Advocate along with Ms. Megha Chandraa, Advocate i/b Ranjit and Co.

**FOR THE RESPONDENTS**

Mr. Aditya Pimple, Advocate and Mr. S. Deshpande, Advocate i/b Desai & Dewanji.

**ORDER**

**Heard on : 02.03.2017**

**Date of Order : 02.03.2017**

1. The aforementioned Interim Application, filed on 27<sup>th</sup> February, 2017, is mentioned wherein the reliefs sought are as under:-

**"12. RELIEFS SOUGHT:**

In the light of what is stated hereinabove, it is humbly prayed that this Hon'ble Tribunal be pleased to :

- a) stay the implementation and/or execution of the Order dated 20<sup>th</sup> February 2017, passed in Interlocutory Application No.04 of 2017, being Exhibit "A" hereto for the period as this Hon'ble Tribunal may deem fit and proper.
- b) Pass such other order and direction as this Hon'ble Tribunal may deem fit in the interest of justice."

2. From the side of the Applicant / Petitioner, Ld. Representative Mr. Vishal Kanade appeared and pleaded that in a situation when the main Petition is ripe for hearing, the Interim Order was not judiciously required to be passed. He has also pleaded that the Leave & Licence Agreement under consideration is already in dispute in the main Petition and the legality of execution of such agreement by the Respondents has been challenged in the main Petition. It is also

aggrieved party can get time to take due legal recourse of filing of an appeal before the higher forum. However, this is not the situation in this case because the said Order is of the interim or interlocutory nature. Rest of the factual issues as raised in this Application being subjudice; hence hereby left open to be decided along with the main Petition.

5. Resultantly, the impugned Application under consideration is not legally sustainable in the eyes of law; hence dismissed. The Application being disposed of, directed to be consigned to the records. The main C.P. No. 88/397, 398/NCLT/MB/MAH/2014 is already listed for hearing on 30<sup>th</sup> March, 2017.

Dated: 2<sup>nd</sup> March, 2017

Sd/-  
**M.K. SHRAWAT**  
MEMBER (JUDICIAL)