

**NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

C.P. No. 08/2016

CORAM: 1. Hon'ble Member (J) Ms. Manorama Kumari

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 07th March, 2017, 10.30 A.M

Name of the Company		Atul Kumar Sultania & Ors . -Versus- Ghata Balaji Rasayan Sales Pvt. Ltd. & Ors	
Under Section		241/242	
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

1. DN Sharma, Adv
2. Nirmalaya Dasgupta, Adv
3. Soisti Roy, Adv
4. Shwetaank Nigam, Adv

}

for petitioners

Anind
M
7/3/16

1. Rixy Ray Adv. for Respondent nos. 1 & 3
- Rixy Ray
07/03/16

1. Deepnath Bosechoudhury } for Respondents no. 2 and 4-6
2. Koushik Salva

Koushik Salva
7.3.16

ORDER

The Ld. Lawyer on behalf of the petitioner as well as on behalf of the respondents are present.

The respondent Nos. 5 and 6 filed one Interlocutory Application No.44/2017 with the prayer –

- (a) Order dated January 06, 2017, passed in IA 02/2017, IA 59/2016 arising out of CP No. 08/2016 be recalled and/or set aside;
- (b) Stay of all further proceedings in CP 08/2016 till disposal of the instant application.

Heard both side on IA 44/2017.

The respondent(s) have drawn my attention towards the amendment petition filed by the petitioner with allowance of IA 59/2016.

In IA 59/2016, there was a specific prayer made in clause (viii) that leave be granted to the petitioner for amendment in CP in the manner as indicated in red ink in the document marked "X".

On perusal of the document as marked "X", page – 78,80,85,86,99 and 100, the petitioner has specifically underlined the portion which he desires to amend and at no other places.

Accordingly, the prayer of the petitioner was allowed with the direction that the petitioner may amend their CP only to the extent of underlined portion as prayed in their petition(Annexure "X") and at no other places, with a further direction that the petitioner has no liberty to change the nature and character of the main CP.

On perusal of the record and as pointed out by the respondents No. 5 and 6 vide their IA 44/2017, it is found that the petitioner by disobeying the order of this Court, has changed the nature and character of the petition and more specifically, he has totally changed the verification /affidavit portion which was earlier enclosed in the main petition without taking any prior leave.

It is a very serious issue that in disobedience of the order, the petitioner has intentionally changed the nature and character of the main CP and thereby trying to fill up the latches and the lacunae made in the earlier petition.

In view of the above, the IA No. 44/2017 filed by the respondent Nos. 5 and 6 is allowed and both the earlier petition as well as the amendment petition will be taken into account at the time of final hearing as the question of maintainability has cropped up.

Fix the matter on 07-04-2017.

Sd/r

MANORAMA KUMARI
MEMBER(J)