

**NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA**

C.P. No. 05/2016

**Present: Hon'ble Member (J) Shri Vijai Pratap Singh  
Hon'ble Member (T) Shri S.Vijayaraghavan**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 21<sup>st</sup> September, 2016, 10.30 A.M**

Name of the Company		Axis Nirman & Industries Ltd. -Versus- Hotel Birsa Pvt. Ltd. & Ors.	
Under Section		<b>241/242</b>	
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

1. Mr. Jishnu Chowdhury.

2. Mr. Saunak Mitra.

3. Mr. Sayantani Das  
Advocates

For  
Petitioners

*Das.*

1. Mr. Anirban Ray, Adv.

2. Mr. Prithwisingh Sinha, Adv.

3. Mr. Ashwini Samanta, Adv.

4. Mr. Mudita Khaitan, Adv.

R-4

*Mudita Khaitan*

1. Mr. R. Mitra

2. Mr. K. Mallik

3. Mr. P. P. Bishwal

R-7

*Bhullik*  
21/9/2016

1. Amitesh Banerjee

2. Somnathia Mukherjee

3) Sayak Ranjan Ganguly

R-2 & 3

*Ganguly*  
21/09/16

2.

ORDER

Ld. Counsels for the Petitioners and Respondent Nos. 2, 3 4 and 7 are present.

Heard.

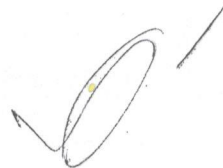
Admit.

Issue Notice.

Ld. Counsel for the petitioner submitted that the petitioners have filed the petition under Sections 210, 213, 241, 242 and 246 of the Companies Act, 2013 against the respondents.

81 The petitioners claim that petitioner No. 1 is a company incorporated under the Companies Act, 1956 and holds 90,000 equity shares which have been duly issued in its favour and all calls has been paid by the petitioner No.1 as well as the petitioner No. 2 is a company incorporated under the Companies Act, 1956 and hold 1,20,000 equity shares which have been duly issued in its favour and all calls have been duly paid by the petitioner No.2.

S. S. - Jagadev



3.

The petitioners together hold 33% equity shares in the respondent No. 1 company and are entitled to present the instant petition seeking relief against the acts of oppression and mismanagement perpetrated by the respondent Nos. 2 to 7 herein.

The petitioners has alleged that the company primarily owns a Hotel situated in the state of Jharkhand near the Capital Airport of Ranchi. The Hotel was in shambles and business prospects looked bleak as the Hotel was running at a loss. The respondent No.1 was dealing with outstanding loans from financial institutions like HUDCO and several individuals including HUDCO in excess of Rs. 8.0 Crores, in addition to interest.

The petitioners stated that respondent No. 4 has instituted a Company Petition No. 360/2010 before the Company Law Board, Kolkata on some frivolous and untenable grounds. From the proceedings of the said Company Petition the petitioners have come to know that respondent No. 7 has also been duped by the respondent no. 2, 3 and 4 in as much as no shares have been transferred in favour of the respondent no. 7, even though, pursuant to Memorandum of Understanding, the respondent no. 7 made payment of Rs. 1.0 Crore.

In the averments the petitioners have alleged several acts of oppression and mismanagement by the respondents and, therefore,

*S. V. Jeyaraj*



4.

the petitioners have filed this petition and has made prayer for interim relief and requested that respondent no. 6 be directed to not to participate in the affairs of respondent no. 1 and restrained by an order not to attend any board meeting of respondent no. 1 that may be called.

The petitioners have also requested that respondent no. 6 be restrained by an order participating in the Board Meeting on 17<sup>th</sup> September, 2016 or any other date.

The petitioners have also sought for perpetual injunction restraining the respondent nos. 2 and 3 from dealing with and/or alienating and/or encumbering and/or creating any third party interest in the fixed assets of the respondent no. 1 company.

The petitioners have further prayed that perpetual injunction be passed restraining the respondent Nos. 2 and 3 in any manner changing the shareholding of the company and sought further injunction on respondent nos. 2 and 3 from inducting any person till the disposal of the instant petition.

The counsel appearing for the respondent no. 2, 3, 4 and 7 submitted that there is no information regarding service of notice on the respondents. Therefore, respondents counsels have further requested that time be given for filing reply.

S. S. Jagadevan






5.

81 Let reply ~~may~~ be filed within 2 weeks and thereafter rejoinder, if any, may be filed within 2 weeks.

List the matter on 13<sup>th</sup> November, 2016 at 10.30 AM.

Meanwhile, parties are directed to maintain status quo regarding shareholdings and appointment of fresh director in the Board of Directors.

  
(S. Vijayaraghavan)  
Member (T)

  
(Vijai Pratap Singh)  
Member (J)