

In the National Company Law Tribunal
Mumbai Bench.

CP No.268/97/NCLT/MB/MAH/2017

Under Section 97 of Companies Act 2013

In the matter of

Sonali Nimish Arora

V/s

Tresorie Traders Pvt. Ltd. & Anr.

Order delivered on: 04.10.2017

Coram: (1) Hon'ble Shri M.K. Shrawat, Member (Judicial)
(2) Hon'ble Shri Bhaskara Pantula Mohan (Judicial)

For the Petitioner(s): : 1. Mr. Chirag Mody,
2. Mr. Vyan Shah,
3. Ms. Archana Kumar, Advocates.

For the Respondent(s): : 1. Mr. Karl Tamboly,
2. Ms. Loshika K. Bulchandani, Advocates.

Present : Ms. Isha Shah, Company Secretary.

Per M.K. Shrawat, Member (Judicial).

ORDER

1. A Petition has been filed on 03.07.2017 under section 97 of the Companies Act, 2013 by the Petitioner, Mrs. Sonali Nimish Arora for the directions to convene the Annual General Meeting of the Respondent No.1 Company viz. M/s. Tresorie Traders Pvt. Ltd. and further direction that one member shall constitute the quorum of the Meeting.
2. The Petitioner stated to be holding 990 equity shares of Respondent No.1 Company constituting 99 per cent of the total paid up share capital. It is also claimed that she happened to be a whole time Director with effect from 17.04.1996. the main prayer is that as a Member she is seeking direction to convene an Annual General Meeting as prescribed under section 96 of the Companies Act, 2013 by invoking the powers to NCLT to call Annual General Meeting under section 97 in case of default.
3. One of the reason for initiation of this Petition is that upon the demise of late Mr Gopal Raheja on 18.03.2014, the Petitioner and the Respondent No.2 viz. Mr. Sandeep Gopal Raheja are the only shareholders. However, Respondent No.2 distanced himself from the working of the Company despite receiving notices for attending the AGM. It is stated that the Respondent No.2 deliberately remained absent and did not attend the Meetings. The consequence was that the Petitioner

is the only shareholder present but due to want of quorum AGM could not be convened. It has been alleged that Respondent No.2 is holding only 0.5 per cent shareholding and misusing his position as a shareholder of R1 Company. Certain instances of issuance of notice intimating the date of AGM are narrated in the Petition and it has also been narrated that due to want of quorum those Meetings were adjourned.

4. With this background, that too in brief, the relief sought is to seek direction to hold a Meeting for the Financial Year ending 31st March 2014, 31st March, 2015 and 31st March 2016. One more prayer is made that until the decision of the testamentary suit the Petitioner be deemed to constitute a valid quorum for holding AGM or EOGM.
5. On the date of hearing, Learned Representatives of both the sides are present and at the outset informed that the Parties have consented in respect of the relief sought as per para 8(a), (b), (c), (d) of the Petition, for ready reference reproduced below:-

"(a) this Hon'ble Tribunal be pleased to call for, convene and hold the Annual General Meeting of the Respondent No.1 Company for the Financial year ending 31st March 2014;

(b) this Hon'ble Tribunal be pleased to call for, convene and hold the Annual General Meeting of the Respondent No.1 Company for the Financial year ending 31st March, 2015;

(c) this Hon'ble Tribunal be pleased to call for, convene and hold the Annual General Meeting of the Respondent No.1 Company for the Financial year ending 31st March, 2016;

(d) this Hon'ble Tribunal be pleased to order and direct that the presence of only one member, i.e. the Petitioner herein, either in person or by proxy shall be deemed to constitute a valid quorum for the Annual General meeting (s) of Respondent No.1 Company held pursuant to prayer clauses (a), (b) and (c) above;"

6. On hearing Learned Representatives of both the sides, and considering the legal requirement of holding the AGM for conducting the normal business of the Company as also consented by both the sides, the prayer for holding the Meeting for the aforementioned Financial Years is hereby allowed.
7. One more prayer is Prayer No.8(h) of the relief sought, for ready reference reproduced below:-

"(h) this Hon'ble Tribunal be pleased to order and direct that until Suit No.2363 of 2012 and Testamentary Suit No.115 of 2015 are finally decided, the presence of only one member, i.e. the Petitioner herein, either in person or by proxy shall be deemed to constitute a valid quorum for holding the Annual General Meeting(s) or the Extra Ordinary General Meetings of Respondent No.1 Company;"

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8. In respect of this Prayer, a consent is given, therefore, prayer is allowed with the direction that the AGM is to be held as prescribed under the Companies Act for the Financial Year ending 31st March 2017 for which notice is to be given in due course and to be attended by the Petitioner in person or through proxy which shall constitute the deemed quorum for conducting the Meeting.
9. Learned Counsel of the Respondent has stated that the consent for holding the Meeting and for constituting the quorum, as mentioned above, given by the Respondent No.2 shall not, in any manner, prejudice his rights in respect of any suit or claim. Likewise, the Counsel of the Petitioner has also stated that no concession be considered as granted in respect of the allegation, if any, in any of the legal proceedings.
10. Rest of the grounds and reliefs sought in the Petition have not been pressed from the side of the Petitioner. This Petition stood decided only on the terms as recorded hereinabove. The Petition is disposed of as "**withdrawn**" and to be consigned to the Records.

Sd/-

BHASKARA PANTULA MOHAN

Member (Judicial)

Date : 04.10.2017

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Sd/-

M.K. SHRAWAT

Member (Judicial)