

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI**

COMPANY PETITION NO. 64/397-398/CLB/MB/2011

IN THE MATTER OF COMPANIES ACT, 1956 :

CORAM:

SHRI M. K. SHRAWAT
MEMBER (JUDICIAL)

In the matter of Sections 397, 398, 399, 402, 403 and 406 of the Companies Act, 1956.

AND

In the matter of ONKAR CASTING PRIVATE LIMITED, A Company incorporated under the provisions of the Companies Act, 1956 having Registered Office at Gat No. 497/2, Plot No. 9 & 10, Off Bramhanwada Road, Shinde, Nashik 422 101, Maharashtra.

PETITIONER :

Shri Sudeep Rawal, aged about 28 years, Occupation Business, Resident of Flat No. G-2. Radhaswami Co-Op. Hsg. Soc., Tidke Colony, Nashik – 422 002.

... Petitioner

Versus

RESPONDENTS

1. Onkar Casting Private Limited, A Company Incorporated under the Companies Act, 1956, Having its Registered Office Office at Gat No. 497/2, Plot No. 9 & 10, Off Bramhanwada Road, Shinde, Nashik 422 101, Maharashtra.
2. Shri Nitin Moolchand Bashani, aged about 31 years, Occupation Business, Resident of 33, Green Lawns, Near Shingada Talav, Nashik-Pune Road, Nashik – 422 009.
3. Shri Mukund B. Panse, aged about 62 Years, Occupation Business, resident of 31/32, Kudlag Mala, Kalyani Nagar, Gangapur Road, Nashik – 422 013.
4. Smt. Savita Mukund Panse, aged about 58 Years, Occupation Business, resident of 31/32, Kudlag Mala, Kalyani Nagar, Gangapur Road, Nashik – 422 013.
5. Shri Vivek Panse, aged about 33 Years, Occupation Business, resident of 31/32, Kudlag Mala, Kalyani Nagar, Gangapur Road, Nashik – 422 013.
6. Shri Nandkumar B. Panse, aged about 65 Years, Occupation Business, resident of 31/32, Kudlag Mala, Kalyani Nagar, Gangapur Road, Nashik – 422 013.

7. Smt. Jia Nitin Bashani, aged about 28 Years, Occupation Business, resident of 33, Green Lawns, Near Shingada Talav, Nashik-Pune Road, Nashik – 422 009.
8. Smt. Leeladevi M. Bashani, aged about 58 Years, Occupation Business, resident of 33, Green Lawns, Near Shingada Talav, Nashik-Pune Road, Nashik – 422 009.
9. Shri Vedprakash Radhakrishna Sehgal, aged 62 years, Occupation Business, Resident of Garden View Society, Flat No. 3A, Building No. 25-26, Narhar Nagar, Opp. Ambedkar Nagar, Nashik – 422 206.
10. Shri Nishant Vedprakash Sehgal, aged 25 years, Occupation Business, Resident of Garden View Society, Flat No. 3A, Building No. 25-26, Narhar Nagar, Opp. Ambedkar Nagar, Nashik – 422 206.
11. Smt. Prabha Vedprakash Sehgal, aged 58 years, Occupation Business, Resident of Garden View Society, Flat No. 3A, Building No. 25-26, Narhar Nagar, Opp. Ambedkar Nagar, Nashik – 422 206.
12. Shri Sumit Rawal, aged about 33 years, Occupation Business, Resident of Flat No. G-2, Radhaswami Co-op. Hsg. Soc. Tidke Colony, Nashik – 422 002.
13. Nashik Castings Private Limited, a Company incorporated under the Companies Act, 1956, having its registered Office at F-16, MIDC Ambad, Nashik. ... Respondents.

PRESENT ON BEHALF OF THE PARTIES:

FOR THE PETITIONERS

None present from the Petitioners' side.

FOR THE RESPONDENTS

Mrs. A.S. Castellino Advocate i/b Kartik Iyer for Respondent No. 3.

None present from the other Respondents side.

ORDER

Heard on : 25.01.2017

Pronounced on : 31.01.2017

1. Mrs. Castelino Learned Advocate for R.3 is present.
2. None appeared for the Petitioner.

3. The Petition under consideration was filed on 23.08.2011 challenging the removal of the Director from the R.1 Company. On receiving the said Application no Interin Relief was granted to the Petitioner. However, an observation was made vide an Order dated 09.10.2012 by the then CLB, Mumbai Bench, that the Secured Creditor viz. TJSB Sahakari Bank had taken over the possession of the Unit of the Respondent Company in exercise of its rights and powers conferred upon it by virtue of the provision of Section 13(4) of the SARFAESI Act, 2002. Thereafter since 2012 till date the Petitioner seems to be not serious to contest the Petition because adjournments after adjournments were sought and on none of the occasions have failed to appear before the Court.
4. When the matter was transferred to NCLT on 12.08.2016 a direction was given to issue notice to the parties fixing the date of hearing on 15th September, 2016. No one appeared and again the Registry was directed to issue notice to both the parties fixing the hearing on 26.10.2016.
5. On 26.10.2016 one of the Advocate of Respondent No. 3 appeared. However, the Petitioner remained absent. Again the matter was adjd. to 14.12.2016. As had happened in the past no one was present from the side of the Petitioner. Hence again a direction was given to the Registry to issue fresh notice with an intimation that in case of non-appearance, the matter shall be proceeded ex-parte on 25.01.2017. Today the Representative Mrs. A.S. Castellino is present on behalf of R.3.
6. In the light of the past history of the case and considering the continuous absence of the Petitioner, it appears that the Petitioner is not serious to contest this Petition. Therefore, this Petition is hereby dismissed on the ground of non-prosecution.

7. The Petition is dismissed and to be consigned to the records.

Sd/-

M. K. SHRAWAT
Member (Judicial)

Dated: 31st January, 2017