

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH, MUMBAI

C.A. NO. 11/2016

IN

TCP NO. 18/59/NCLT/MB/MAH/2016

CORAM:

SHRI M.K. SHRAWAT
MEMBER (JUDICIAL)

In the matter of Sections 58, 59, 62 of the Companies Act, 2013.

BETWEEN:

Mr. Haresh N. Mataliya & 3 Ors. .. Petitioners

AND

M/s. Pallavi Gems Pvt. Ltd. & 23 Ors. .. Respondents

PETITIONERS

- | | | | |
|----|-------------------------|----|-----------------|
| 1. | Mr. Haresh N. Mataliya | .. | Petitioner No.1 |
| 2. | Mr. Bipin P. Panchmia | .. | Petitioner No.2 |
| 3. | Ms. Jyotsna B. Panchmia | .. | Petitioner No.3 |
| 4. | Mr. Yogesh B. Panchmia | .. | Petitioner No.4 |

RESPONDENTS

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|-----|-----------------------------|----|------------------|
| 1. | M/s. Pallavi Gems Pvt. Ltd. | .. | Respondent No.1 |
| 2. | Mr. Girish N. Mataliya | .. | Respondent No.2 |
| 3. | Ms. Parul G. Mataliya | .. | Respondent No.3 |
| 4. | Mr. Vardhaman G. Mataliya. | .. | Respondent No.4 |
| 5. | Ms. Karishma Mataliya | .. | Respondent No.5 |
| 6. | Ms. Pushpa Bhanusali | .. | Respondent No.6 |
| 7. | Mr. Nipul Bhanisali | .. | Respondent No.7 |
| 8. | Ms. Sheetal Bhanusali | .. | Respondent No.8 |
| 9. | Mr. Jayesh Shah | .. | Respondent No.9 |
| 10. | Ms. Divya Shah | .. | Respondent No.10 |
| 11. | Mr. Ramesh Rawal | .. | Respondent No.11 |
| 12. | Ms. Naina Shah | .. | Respondent No.12 |
| 13. | Mr. Pradip Shah | .. | Respondent No.13 |

14.	Mr. Viraj Bandekar	..	Respondent No.14
15.	Ms. Samidha Bandekar	..	Respondent No.15
16.	Ms. Ranjan	..	Respondent No.16
17.	Ms. Kajal Makwana	..	Respondent No.17
18.	M/s. Madhu Gems Pvt. Ltd.	..	Respondent No.18
19.	M/s. Padmavati Exports, H.U.F.	..	Respondent No.19
20.	M/s. Veekee Developers Pvt. Ltd.	..	Respondent No.20
21.	M/s. Stars International Pvt. Ltd.	..	Respondent No.21
22.	M/s. Girnar Overseas Ltd.	..	Respondent No.22
23.	M/s. Giriraj Minerals Ltd.	..	Respondent No.23
24.	Mr. Anshul Bhatt	..	Respondent No.24

PRESENT ON BEHALF OF THE PARTIES

FOR THE PETITIONERS

Mr. M.S. Bhardwaj, Advocate.

FOR THE RESPONDENTS

Mr. Prathamesh Kamat along with Mr. Siddhanth Chhabria, Advocates
i/b. M/s. Legal Juris

ORDER

Reserved on : 17.02.2017

Date of Order : 17.02.2017

1. The Learned Representatives of both the sides are present.
2. From the side of the Applicant in C.A. No. 11/16 (Respondent of the main Petition) the maintainability of the Petition has been challenged, primarily on the ground that the Petition was barred by limitation as also that the Petitioner has come with unclean hands and the reliefs sought u/s 59 of the Companies Act are not as per law.
3. After hearing the submissions of both the sides, I find no force in C.A. No. 11/2016 by following the ratio laid down in the **Judgment**

passed by the Hon'ble High Court referred in the case of Divyakant Ramjitsinh Khatau V/s Mrs. Krishnabai Abhay Khatau in Notice of Motion No. 3600 of 2009 in Suit No. 2470 of 1994.

4. From the side of the Petitioner, it is objected on the ground that the reply has been filed belatedly, that too, not following the directions of the Order of the CLB dated 03.05.2016 wherein schedule was given to file the Reply within four weeks time from the date of the Order.

5. On this issue heard both the sides.

6. At the outset, it is worth to place on record that the respondent was not sleeping over his rights because after the Petition was filed, on 03.05.2016 the maintainability was challenged. The respondent had not complied with the Interim Order dated 03.05.2016 till the next date i.e. 20th July, 2016. When this Interim Application is on record, therefore, this Bench is of the opinion that the Respondent should be given a last chance in spite of the fact that the Order was passed on 03.05.2016 which means that the earlier order has merged with the latest directions dated 02.09.2016. Thereafter the reply was filed on 27.01.2017. The same is hereby placed on record and the Petition shall be adjudicated after considering the contents of the Petition as well as the contents of the Reply.

7. Since the CP has been enlisted to be heard on merits, therefore, both the Learned Counsel are of the opinion that the original documents should also be placed before the Bench which are to be examined mutually by both the parties.

8. However, considering the situation of both the sides, they are directed to produce the documents as enlisted in the Petition and in the Reply before this Bench on the next date of hearing.

9. Since the reply has been directed to be placed on record and admitted for consideration, therefore, the Petitioner is granted liberty to file the Rejoinder, if any, on or before 15.03.2017.

10. The Application is finally disposed of on the terms supra; hence directed to consign to records. The main Petition is now listed for hearing on **23.03.2017** as consented by both the sides.

Dated: 17th February, 2017

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