

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL**

**HYDERABAD BENCH, AT HYDERABAD**

**CA No. 1 of 2016**

**In**

**CP No.87 of 2007**

**(TP No.15/HDB/2016)**

**CERTIFIED TO BE TRUE COPY  
OF THE ORIGINAL**

**Date of Order: 19.10.2016.** ✓

**Between:**

1. Mr. D. Tej Kumar  
S/o D. Srinivasa Rao, aged about 27 Years  
Occ. Business R/o 7-1-79/C  
Dharam Karan Road  
Ameerpet, Hyderabad 500016.
2. Miss D. Chandana  
D/o D. Srinivasa Rao, 7-1-79/C  
Dharam Karan Road  
Ameerpet, Hyderabad 500016.  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.
3. Miss. D. Kavitha  
D/o D. Srinivasa Rao, 7-1-79/C  
Dharam Karan Road  
Ameerpet, Hyderabad 500016.  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.
4. Miss D. Lakshmi  
W/o D. Krishna Rao,  
Flat No.102, H.No.7-1-345/346,  
Sai SriLakshmi Residency,  
Balkampet Road, S.R Nagar, Hyderabad-38  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.

5. Mr. Cheedi Latchayya  
S/o Shankara Narayana  
C/o D. Umavathi  
H.No. 7-1-79/C  
Dharam Karan Road  
Ameerpet, Hyderabad 500016.  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.
6. Mr. Ch. Ramama Murthy  
S/o Karrenna  
Savara Addapanasa Village & Post  
Saravakota (Via)  
Srikakulam District, Andhra Pradesh  
(Camp. Ameerpet, Hyderabad)  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.
7. M/s Siri Consultants  
7/1/79/A, Dharam Karan Road  
Ameerpet, Hyderabad 500016.  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.
8. Mr. M. Visweswara Rao,  
S/o M. Ramachandra Rao,  
H.No. 189, Flat No.102,  
Narayandari Apartments, Door No.7,  
Street No.4, Secunderabad-26, A.P  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.
9. Mr. V.K. Vijay Kumar  
S/o A. Kotaiah  
H.No. 4-1-95, P&T Colony,  
Nacharam, Hyderabad-76, A.P.  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.
10. Mr. T. Rama Rao  
S/o T Ramulu



H.No. 1-346, Chiranjivi Nagar,  
Video Colony, Miyapur,  
Hyderabad, R.R District, A.P  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.

11. Mr. T. Pulla Rao  
S/o T. Lakshma Rao  
LIG-734, Road No.5,  
KPHB Colony, Hyderabad-72, A.P  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.

12. Mr. M. Srikanth Reddy,  
S/o M. Narasimha Reddy  
1/406, Babukhan Estate,  
Basheer bagh, Hyderabad, A.P  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.

13. Mr. D. Krishna Rao  
S/o D. Simha Baladu  
7-1-29 Plot-9, Coramandal Apartments,  
Leela Nagar, Hyderabad-16, A.P  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.

14. Mr. G.V. Ramana  
S/o G. Venkatappadu  
LIGH-61/C 2<sup>nd</sup> Floor,  
B.K Guda S.R. nagar  
Hyderabad-38, A.P  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.

15. Mr. D. Padma Shree  
S/o D. Simha Baladu,  
7-1-408, Flat No.102, Sai Darshan Residency,  
Ameerpet, Hyderabad-16, A.P  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.



16. Mrs. D. Umavathi  
D. Srinivasa Rao, 7-1-79/C  
Dharam Karan Road  
Ameerpet, Hyderabad 500016, A.P  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.
17. Miss D. Srisha  
D/o. D. Srinivasa Rao, 7-1-79/C  
Dharam Karan Road  
Ameerpet, Hyderabad 500016, A.P  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.
18. Mr. D. Narasimha Murthy  
S/o D. Simha Baladu  
7-1-29 Plot-9, Coramandal Apartments,  
Leela Nagar, Hyderabad-16, A.P  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.
19. Mrs. Ch. Madhu Latha,  
D/o Ch. Sambhi Reddy  
Plot No.15B  
Maheswari Nagar, Bharat Nagar,  
Hyderabad-18, A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.
20. Mr. P. Dasaratha Rao,  
S/o P. Simhachalam  
7-1-307/16/3, Subhash Nagar,  
Sanath Nagar, Hyderabad-18, A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar
21. Mr. Kornu Mohan Rao,  
S/o. K. Pappaiah  
Near Market, Ameerpet, Hyderabad-16, A.P.,

Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.

22. Mr. K.H. Prasad

S/o K. Lakshmaiah,

7-1-79/A, Dharam Karan Road,

Ameerpet, Hyderabad-16, A.P.,

Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.

23. Mr. P. Ram Babu

S/o P. Narayana Rao,

H.No.6-1-285A,

Padma Rao Nagar,

Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.

24. Mr. M. Uma Rao,

S/o. M. Appalasuri SRT 659, Sannath Nagar  
Hyderabad-500018.

25. Mr. B. Krishna Rao,

S/o Ramanamurthy,

C/o Idupulapadu Cotton Mills

Ganapavaram, Guntur, A.P.,

(Temporarily came down to Hyderabad)

Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.

26. Mr. SK Syed Saheb

C/o Idupulapadu Cotton Mills

Ganapavaram, Chilakaluripet.

Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.

27. Mr. Shaik Saida Saheb

S/o Meera Saheb

H.No.9-135-3, Mazeed Street, Ganapavaram,  
Nadendla (Mandal), Guntur (D.T), A.P.,

Represented by Power of Attorney Holder



Mr. D. Tej Kumar.

28. Mrs. Shaikunbi  
W/o SK Saida Saheb,  
H.No.9-135-3, Mazeed Street, Ganapavaram,  
Nadendla (Mandal), Guntur (D.T), A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar
29. Mr. V. Seshiah  
S/o. Late V. Subbiah  
H.No.8-3-222/8/36  
Plot No.13, Madura Nagar,  
Yusuf Guda, Hyderabad-38, A.P.
30. Mr. Ch. Govinda Rao  
S/o Ch. Gajapathi Rao  
H.No. 7-19/7, Subhash Nagar, B.N. Colony,  
Jeedimetla, Hyderabad, A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar
31. Mrs. Ch. Vijay Lakshmi  
W/o Ch. Satyanarayana  
H.No. 19/6  
Bhagya Nagar Colony, Subhash Nagar,  
Jeedimetla, Hyderabad, A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar
32. Mr. R. Sri Ramulu  
S/o R. Ram Murthy  
Plot No.9, Flat No.302,  
Usha Mullapudi Road, Hyderabad-72, A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar
33. Mrs. Y. Sri Devi  
H. No. EWS-273,  
Bharat Nagar colony, Hyderabad-18, A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar



34. Mr. M. Sita Ram  
S/o M. Chiranjeevulu  
Yathabasivalasa Village  
Periveda Post, Srikakulam District, A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar.
35. Mr. Thavati Naidu  
S/o P. Raja Rao,  
8-77/2, Chintal  
Srinivasanagara, Hyderabad, A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar
36. Mr. D. Rama Murthy  
S/o Sri Suran Naidu  
Venkatapuram (Village)  
Aludu (Post)  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar
37. Mr. Cheedi Kerranna  
S/o C.H Pentaya  
Savaraddapansa (Village)  
Sarova Kota (Mandal)  
Srikakulam (District)  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar
38. Mr. Kornu Naran naidu  
S/o K. Haridas  
Savirigram Village,  
Srikakulam (District), A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar
39. Mr. G. Appa Rao  
S/o G. Styanarayana  
Pasaravani peta  
Narasannapeta Mandal,  
Srikakulam (District), A.P.,

Represented by Power of Attorney Holder  
Mr. D. Tej Kumar

40. Mr. M. Mohan Rao  
S/o M. Chiranjeevulu  
Yatlabasivalasa Village  
Parivada Post, Srikakulam (District), A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar

41. Mrs. Sk Mastan Bi  
W/o Sk Khasim  
SRT-89, Sanath Nagar, Hyderabad-18, A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar

42. Mr. Sk. Gulam Muhammed  
S/o Sk Khasim  
SRT-89, Sanath Nagar, Hyderabad-18, A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar

43. Mrs. Sk Gousya Begum  
W/o. D.L.M. Khasim  
C/o SRT-89, Sanath Nagar, Hyderabad-18, A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar

44. Mrs. Shaikumbi  
W/o D.L.M Khasim  
H.No.2-1-57-3,  
Venkateswara Colony, Lakshmigarden road,  
Uppal, Hyderabad, A.P.

45. Mr. Khader Mastan  
S/o. Sk Meera Saheb  
C/o SRT-89, Sanath Nagar, Hyderabad-18, A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar

46. Mr. D. Linganna  
G6, Reliance Residency Domalguda,





Hyderabad-29, A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar

47. Mr. D. Bala Rama Murthy  
S/o D. Simha Baludu  
Ward No. 6, Arts College Road, Srikakulam  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar

48. Mr. Someswara Rao M.  
S/o. M. Chiranjeevilu,  
Yatlabasivalasa Village  
Parivada Post, Srikakulam District, A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar

49. Mr. D. Suriyanarayana  
S/o D. Rama Rao  
Killam Village, Srikakulam District, A.P.,  
Represented by Power of Attorney Holder  
Mr. D. Tej Kumar

50. Mr. D. Jawahar Babu  
C/o 7-1-79A, Dharam Karam Road,  
Ameerpet, Hyderabad-16, A.P.

Applicants/Petitioners

AND

Priyaranjani Fibres Limited  
Registered Office at  
Rayapole (Village),  
Ibrahimpattanam (Mandal)  
Ranga Reddy District, Andhra Pradesh  
Admn Office: Flat No.203, VRK Towers,  
H.No. 7-1-396, S.R. Nagar, Hyderabad-38  
Represented by its Executive Vice Chairman  
Mr. D. Srinivasa Rao

2. Mr. D. Srinivasa Rao  
S/o Late D. Simhabaludu  
Aged about 58 Years  
Occupation: Business  
R/o 7-1-79/C, Dharamkaram Road,  
Ameerpet, Hyderabad 500016
3. Mr. Kandula Sivananda Reddy  
S/o K. Obula Reddy  
Aged about 56 Years  
R/o. 1-397/1, Court Road,  
Kadapa 516001, Andhra Pradesh.
4. Kandula Uttam Reddy  
S/o. K. Timma Reddy  
Aged About 50 Years  
R/o 4/521, Bapuji Road  
Aravinda Nagar, Kadapa 516001  
Andhra Pradesh.
5. Mr. Kora Siva Sudershan Reddy  
S/o. K. Nagi reddy  
Aged about 52 Years  
1/496, Smith Road, Kadapa-516004.

...Respondents/Respondents



**Counsel for the Applicants/Petitioners:**

Shri B.P.Mohan

**Counsel for Respondents No. 1,3to 5:**

Shri P.H.Arvinth Pandian

**Party-in- person/Respondent No. 2**

:

D.Srinivasa Rao

**CORAM:**

HON'BLE Mr. RAJESWARA RAO VITTANALA, MEMBER (JUDL)

HON'BLE Mr. RAVIKUMAR DURAISAMY, MEMBER (TECH)

**ORDER**

(As per Rajeswara Rao Vittanala, Member (Judicial))

1. The Company petition bearing No. 87 of 2007 was initially filed before the Hon'ble Company Law Board, Chennai Bench, Chennai. Upon the constitution of NCLT Bench at Hyderabad Bench for the cases pertaining to the States of Andhra Pradesh and Telangana, the case is transferred to Hyderabad Bench. Hence, we have taken the case on records of NCLT, Hyderabad Bench and deciding the case.
  
2. The present Company Application No.1/2016 in CP No.87/2007 has been filed by the Petitioners of CP No. 87/2007, under Regulation 44 of the Company Law Board Regulations, 1991 by praying the Tribunal to appoint an Advocate Commissioner to take inventory of the fixed assets of the Company with the help of a technically qualified person in the textile technology in the presence of all interested parties particularly, the IDBI/Secured Assets Stabilization fund, IDBI Tower, WTC Complex, Cuffe Parade, Colaba, Mumbai-400005 and pass such other order or orders as the Hon'ble Company Law Board deems fit and proper in the circumstances of the case.

3. The Applicants submit that CLB passed an order dated 16.07.2008 restraining the respondents from functioning as Managing Director/Directors of the Company and further prohibited from selling any of the fixed assets of the Company until the disposal of the Company petition. The said order was also upheld by the Hon'ble High Court of A.P. vide its order dated 28.01.2009 passed in CA No. 14&16 of 2008 and, the SLP filed thereon was also dismissed. It is further stated that the learned counsel for the respondents furnished a list of fixed other movable assets including stock held by the Company, on 26.10.2007. Contrary to the orders of the CLB dated 10.10.2007, the respondents had illegally sold away most of the important production machinery and, has committed an offence of theft. When a Panchnama was conducted on 18.02.2013 by the SHO, Ibrahimpatnam PS, it was noticed that the most of the important production machinery like 1 Simplex Machine, 10 Jeets ring frames and two 500 KVA Generators were not present in the premises of the Company. So it is alleged that the machinery as submitted on 26.10.2007 was not available. It is further alleged that IDBI SASF Branch, Mumbai, who is the secured creditor of the Company, is also not taking any action, even though the same was brought to their knowledge. In the circumstances, the Applicants submit that it is essential to take inventory of the

machinery in question in the presence of all interested parties in order to arrive at correct picture about what is remaining in the factory premises.

4. The respondents have filed a common reply dated 12.09.2016 by denying all the averments made in Company Application. They further contend that all the pleadings in Company Petition itself was completed and, CA No.3 of 2010 filed against the maintainability of CP is also pending thus it is contended that it is un-necessary to entertain this application at this late stage. The application is filed by suppressing several material facts to mislead this Bench. They have also stated that a criminal complaint was also lodged bearing Cr No.135 of 2012 and also CMP No.155/2014 and, both the cases were dismissed by IV MM, Cyberabad, Ibrahimpatnam on 07.01.2015. CRP No.32/2015 preferred against the said order was also dismissed on 08.01.2016. Thus, the respondents have alleged that the applicants are indulging in making all kinds of mischievous/frivolous and baseless allegation especially against the Respondent No.3 and Statutory Auditor before various civil and criminal forums. Therefore, they prayed the Tribunal to dismiss the CA.

5. Heard Shri B.P Mohan for the Applicants/Petitioners and Shri P.H Arvinth Pandian, Senior Advocate for the Respondent No. 1, 3, 4 and 5, Shri D Srinivas Rao, Party in person (Respondent No.2). We have also gone through various pleadings made by the parties and, the documents filed by them.

6. Shri B.P Mohan, the learned counsel for the Applicants, while reiterating the contents raised in the application, has further contended that in order to know the veracity of the allegations and counter allegations made by the parties with regard to the machinery of the factory in question, it is essential to appoint an Advocate Commissioner to adjudicate the issue finally by the Tribunal. By appointing an Advocate Commissioner, to know the truth of the issue in question, no body's interest is going to get affected. On the other hand, it would be convenient for the Tribunal to decide the issue at an early date. He further submits that he has not filed this type of petition earlier. Moreover, the Tribunal passed an interim order dated 16.07.2008 prohibiting the respondents from selling of any of the fixed assets of the Company until the disposal of the Company Petition.





7. Shri B.P Mohan has also filed written submission dated 19.08.2016 by interalia contending that the main issue in the Company petition was the illegal action of Respondent No.3 to 5 in seizing the factory, machinery and other assets of the Company. He has filed several documents in support of his contention that several machinery/property of the Company was found missing/transferred.

8. Shri D. Srinivas Rao, the party in person (Respondent No.2) appeared and supported the Application for appointment of the Advocate Commissioner to know facts of the case with regard to the assets of the Company. He also submitted that BIFR vide its order dated 27.12.2004, has interalia directed that the Company should not dispose of or alienate in any other way, any of its fixed assets and current assets without specific prior approval of BIFR and the Charge Holders under Section 22A of the Sick Industrial Companies (Special Provisions) Act, 1985.



9. Shri P.H Arvinth Pandian, the learned Senior Counsel for Respondent No 3 to 5 has strongly opposed the maintainability of the application especially when the Applicants/ petitioners was facing the issue of the maintainability itself as they have

filed CA No.3 of 2010 and, pleadings in CP & CA are already completed. The present frivolous application is filed with an intention to drag on the issue and the Applicants failed to succeed in their designs to malign his clients as submitted supra about the criminal cases filed by them.

10. The learned Senior Counsel, though has seriously opposed the maintainability of present company application, has finally and fairly submitted that an Advocate Commissioner can be appointed and, he may be directed to submit his final report within a period of 1 month from date of his appointment and, the Company Petition itself should be decided immediately thereafter.

11. It is not in dispute that the pleadings in CP are already completed and, CA. No.3 of 2010 filed by the respondents questioning the maintainability of CP is also pending. The learned senior Counsel is correct in submitting that the case, which was instituted in year 2007, is required to be decided at the earliest possible time without granting long adjournments. Since, the Applicants are making serious allegations about the assets of the Company in question and, in order to decide the issue finally,

and at an early date, we deem it proper to appoint an Advocate Commissioner in order to know the veracity of allegations and counter allegations made by the parties with regard to fixed assets of the Company in question. We will take the main case itself for final hearing immediately after submission of Report by the Advocate Commissioner.

12. In view of the above facts and circumstances of the case, and in interest of the justice, we dispose of CA No. 1 of 2016, with the following directions:

- a. As suggested by the parties, we hereby appoint Mr. K. Raghvendra Rao, Consultant Advocate for M/s King & Partridge, R/o: H.No.221/B, Sanjeev Reddy Nagar, Behind Yellamma Temple, Hyderabad-500038 to take inventory of the fixed assets of M/s. Priyaranjani Fibres Limited.
- b. He is directed to complete the total inventory of the Company within a period of one month from the date of the receipt of the copy of this order.
- c. He is directed to issue notice to all the concerned parties.
- d. He is at liberty to take assistance of the technical expert to complete his inventory.

e. Advocate Commissioner Fees is fixed at Rs. 75,000/-  
(which is to be paid equally by the Applicants  
Rs.25,000/-, Respondent No.2 Rs. 25,000/- and  
Respondent No. 1, 3. 4 and 5 together Rs. 25,000/-) and  
this fee is to be paid to the Advocate Commissioner at the  
time of issue of notice by the Advocate Commissioner.

CERTIFIED TO BE TRUE COPY  
OF THE ORIGINAL

Sd/-

Sd/-

**RAVIKUMAR DURAISAMY**

**RAJESWARA RAO VITTANALA**

**MEMBER (TECH)**

**MEMBER(JUDL)**

V. Annapoorna  
V. ANNA POORNA  
Asst. DIRECTOR  
NCLT, HYDERABAD - 68