

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI BENCH, MUMBAI
T. C.P. 128 of 2009

Coram: B.S.V. Prakash Kumar, Member Judicial.

In the matter of Companies Act, 1956 under Sections 397-398.

AND

Between:

Mr. Ajit Dugal & Ors.Petitioners

V/s.

M/s. Sima Hotels & Reosrt Ltd. & Ors.Respondents

Petitioners:

1. Mr. Ajit Dugal
2. Mrs. Ranjit Dugal
3. M/s. G.S. Dugal & Co. Pvt. Ltd.
4. Mr. Surendra Kapur

Respondents:

1. Sima Hotels and Resorts Ltd.
2. Jarani Tekchand Govindram
3. Jethwani Gangaram Tejumal
4. Jarani Govindram Mahesh
5. Jethwani Tejumal Mahesh
6. Kamla G. Jarani
7. Sam Spintex Pvt. Ltd.
8. Steward Trading and Investment Pvt. Ltd.

Present on behalf of the parties:

1. Chitranjan Kumar, Advocate for the Petitioner.
2. Aditya Parab, Advocate for the R-1 & 2.

ORDER

(Heard and disposed of on 13.10.2016)

The Petitioner filed this Contempt Application, basing on order dated 5.11.2009 passed by Company Law Board directing R1 to maintain status quo over the shareholding of the company and also to issue notice to all the meetings including Board meetings to the Petitioner by Registered Post Acknowledgment Due (RPAD).

Now in the year 2016, this Petitioner filed this Contempt Application to take Suo-moto contempt against the Respondents for having not provided information or notices in relation to Board Meetings and General Meetings since February 2011. But, it is nowhere mentioned in this Application to which meetings notices were not issued and details of change of shareholding

NATIONAL COMPANY LAW TRIBUNAL MUMBAI BENCH, MUMBAI

received notice to the meeting dated 10.05.2011, he should have initiated these proceedings before 10.5.2012, but he filed this one-page application on 21.09.2016 attaching a legal notice dated 20.6.2016 recording intention to initiate contempt proceedings etc. Since he has not given dates of conducting meeting without notice to him after 10.05.2011, this Bench cannot take any cognizance over any of the issues subsequently happened unless and until particulars are given. Since the Petitioner is actively litigating, he should have taken action immediately if any violation of the order dated 10.05.2009 said to have taken place, but not after lapse of five years.

The Petitioner submits that so that limitation is not applicable, because cause of action for violation of orders is a continuous one, had it been so, the same is applicable in every case, had the legislature felt so, section 20 would not have been carved out and would have left it to fall back on Section 5 of Limitation Act.

Therefore, this Bench has held that this Contempt Application is hit by Section 20 of the Contempt of Courts Act, 1971, accordingly, the same is dismissed without any costs.

Sd/-

B.S.V. PRAKASH KUMAR
Member (Judicial)