

89

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

I.A.No.01/(397-398)/2016
In C.P.No.12/2016

Ms. Manorama Kumari
Hon'ble Member (J)

**In the matter of Section 397, 398, 402 and 403 of the Companies Act, 1956 and
Section 58 and 59 and other applicable sections of the Companies Act, 2013.**

And

In the matter of :
Shri Suresh Chandra Singhal

... Petitioner

Vs.

Singhal Brothers Pvt. Ltd. & Ors.

.... Respondents

Parties on Record:

Mr. Sanjay Kumar Maria
Mr. Anant Kr. Maria

For the Petitioners

Mr. P. Nagendra
Mr. Asutosh Gupta

For the Respondents

Dates of Hearing

26th September 2016

Date of Order

6th October, 2016.

ORDER

One I.A. application is filed by Respondent No.6 with prayer to delete or remove his name from the C.P. Petition as Respondent. The petitioner submitted that he was auditor of the respondent company and his role is confined only to the audit of the company. The petitioner further submitted that he was not a director of the company nor he has any say in the management of the company. Hence making him as respondent No.6 is a misjoinder of the party. The C.P is filed under 397/398 which is for prevention of oppression and mismanagement of the company.

Making of the respondent as party to the C.P. is bad in the eye of law and is required to be deleted.

Heard the petitioner also. The petitioner submitted that the respondent No.6 is a consultant of the respondent No.1 and being the statutory auditor of the respondent company it is his utmost duty to independently audit the accounts of the respondent No.1 company and not to misrepresent the fact in collision with the respondent No.1-5.

Perused the Company Petition and the documents annexed therein. On perusal it is found that no relief has been sought against respondent No.6 and furthermore the application is filed only for the prevention of operation and mis-management against the company. In view of the above fact and the prayer made in the C.P, at this stage, if respondent No.6 allowed as party to the C.P., then it amounts to misuse of the process of law. Hence the petition filed by respondent No.6 is allowed and the name of the respondent No.6 be deleted/struck off from the company petition.

Accordingly, the office is asked to correct the title page of the C.P Application.

MANORAMA KUMARI
MEMBER(J)