

**NATIONAL COMPANY LAW TRIBUNAL**  
**PRINCIPAL BENCH**  
**NEW DELHI**

C.P NO. 30/2033(CHE) &  
33/2003(CHE)  
CA NO.

CORAM:

PRESENT: CHIEF JUSTICE M. M. KUMAR  
Hon'ble President

SH. R.VARADHARAJAN  
Hon'ble Member (J)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF PRINCIPAL BENCH OF THE  
NATIONAL COMPANY LAW TRIBUNAL ON 16.12.2016

NAME OF THE COMPANY: M/s. St. Mary's Hotels Pvt. & Ors.  
V/s.  
Binu Zachariah & Anr.

SECTION OF THE COMPANIES ACT: 397/398, 402 & 111

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
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	Kishita Kumar	/	Applicant.	[Signature]
	Deepika Thirum			

**ORDER**

This is an application with a prayer for transferring C.P. No.9 of 2016 pending before the Chennai Bench of National Company Law Tribunal to any other Bench of NCLT of New Delhi at the discretion of President. During the pendency of the instant application it has further been prayed that proceedings in C.P. No.9 of 2016 may be stayed.

The applicant has made a detailed reference to the pleadings of Interim order, filing of appeal before Kerala High Court, successful review order by Kerala High Court and then filing of Special Leave petition before Hon'ble the Supreme Court. The applicants then proceed to create a ground for transfer of petition alleging that there has been blatant violation and willful disobedience of order passed by the Kerala High Court in RP. No. 434, 448 & 478 in Company Appeal No. 4 & 6 of 2013 and WP(C) No.35722 of 2016. The allegations have been made in para 2 which read as under:-

"2) The Applicants submit that there has been a blatant violation and willful disobedience of order dated RP. No. 434, 448 & 478 in Company Appeal No. 4 & 6 of 2013 and WP(C) No.35722 of 2016 by the 2<sup>nd</sup> respondent and the Presiding officers of NCLT Chennai bench clearly amounts to Contempt of Court. The same also amounts to willful violation and disobedience of the direction/order of the Hon'ble High Court of Kerala. The 2<sup>nd</sup> Respondent and presiding officers are guilty of flagrant violation, open defiance and willful disobedience of Annexure B and C order despite being informed and made aware of the same." (emphasis added)

[Signature]

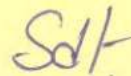
A perusal of the aforesaid para would show that the applicants have the audacity to level allegations of blatant violation and willful disobedience of the order of the Hon'ble Kerala High Court against the Presiding officer of the Chennai Bench of NCLT.

We have heard Mr. Krishna Kumar learned counsel for few minutes and apprised him that the NCLT enjoys the status equivalent to the High Court as it has assumed jurisdiction which used to be exercised by the High Court. The basis of our observation was two constitution bench judgments delivered by Hon'ble the Supreme Court in the cases of *Union of India v. R. Gandhi, President, Madras Bar Association (2010) 11 SCC 1* and *Madras Bar Association v. Union of India (writ petition (c) No. 1072 of 2013 decided on May 14, 2015)*.

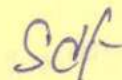
After arguing the case for some time and realizing the serious consequences of prayer for transfer learned counsel for the applicants made a fervent prayer for withdrawal of the application. He sought time to obtain instructions from the applicants. After few minutes learned counsel came back with the instructions and profusely requested for withdrawal of the instant application with a further undertaking that the applicants shall not file such an application making baseless and scandalous allegations against a respected Member of the Tribunal.

As a sequel to the above observations we accept the request made by the applicants. The applicants are warned to be careful in future and refrain from filing any such application. We also take on record the undertaking of the applicants which is made through their counsel Mr. Krishna Kumar that in future they would not file any such application. Accordingly we dismiss the application as withdrawn with the aforesaid undertaking. If in future the applicants or any one of them file any such application then the instant order shall be attached with that application so that subsequent bench may be aware about the conduct of the applicants. An intimation be sent to the computer cell of the Tribunal so as to feed this order appropriately.

The application is dismissed.



(CHIEF JUSTICE M.M. KUMAR)  
PRESIDENT



(R. VARDHARAJAN)  
MEMBER (J)

Dated: 16/12/2016  
(Vidya)