

NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

C.P. No. 121/2014

CORAM: 1. Hon'ble Member (J) Ms. Manorama Kumari

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING ON 03rd March, 2017, 10.30 A.M

Name of the Company		Dhiraj Kumar Mantri. -Versus- Starmark Dealers Pvt. Ltd. & Ors	
Under Section		397/398	
Sl. No.	Name & Designation of Authorized Representative (IN CAPITAL LETTERS)	Appearing on behalf of	Signature with date

1. Ratnanko Banerji
Snr Adv

2. Manju Bhutia
Adv

3. Urmila Chakraborty
Adv

4. Rahul Singh
Adv

for Petitioner

Rahul
03/03/17

1) Jishnu Choudhury

2) Aritra ~~Choudhury~~ Dasu

3) Sushmita Ghosh

4) Parashar Dasgupta

Advocates for
Respondent

P. Dasgupta
3/3/17

/03-03-2017 – CP No. 121/2014 – IA – 40/2017 - Dhiraj Kumar Mantri Vs. Starmark Dealers Pvt. Ltd. & Ors.

ORDER

The Interlocutory Application No.40/17 is put up today on mentioning by the petitioner with prayers as reflected in prayers(a) to (v) in the petition.

The copy of the said petition has already been served upon the opposite parties who have prayed for some time to file the objection.

The Ld. Lawyer of the petitioner submitted that there is every apprehension that the Company may alienate the property and/or change the nature and character of the properties/assets of the company. Hence, a minimum protection is required to be granted in the form of ad interim order at this stage.

Perused the petition and documents annexed therein and also heard both side at length.

In the petition, certain prayers are made for declaration and cancellation of all sale deeds of conveyance, apart from the prayer for adding M/s. Sanjay Pump Hydraulic Pvt. Limited having its registered Office at 6, Amratola Street, Kolkata – 700 006, in the Company Petition.

The petitioner also prayed at Clause No.(q) for the amendment of schedule of CP 121/2014 and in clause(s), that alternatively the statements of the applicant contained in IA No. 40/2017, be taken into consideration at the time of adjudication and final disposal of the Company Petition 121/2014 amongst all other prayers.

On perusal of the record, it is found that another Company Application bearing No. 207/2015 is also pending since 2015 with a prayer that the applicants/respondents and/or their men, agent, servants and assigns be restrained from in any manner in dealing with and/or alienating and/or disposing of the fixed assets of the company as indicated in Annexure "C" of the said Company Application, apart from other two prayers.

It is found that the petitioner has never made any endeavor to get it disposed of by way of getting any restrain order till date, if at all aggrieved.

Now, keeping abeyance the previous application i.e. CA No. 207/2015, the petitioner has come with fresh application in the form of declaration and cancellation of sale deed, for ad interim injunction order, addition of the new parties and also for amendment in the main CP, apart from many other prayers.

In my considered opinion, the instant application is bad in the eye of law inasmuch as no declaration order could be passed in Interlocutory Application when the main CP is pending which is to be decided on the basis of merit.

Further, the petition contained the various prayers as stated above and as such, it is necessary that the respondent may get sufficient opportunity to file the reply in the instant IA before passing any ad interim order.

Accordingly, the applicant/respondent is allowed seven days' time to file his written reply with a copy to the petitioner and the petitioner is given another seven days thereafter, for filing the rejoinder, if any.

As there is no prima facie case, no ad interim injunction can be granted at this stage without having detail hearing from both side.

Fix the matter on 27-03-2017 for hearing on the IA 40/2017.



MANORAMA KUMARI
MEMBER(J)