

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH, MUMBAI

C.A. 72 of 2016 in C.P. 36 of 2014

CORAM:

M K SHRAWAT

MEMBER (JUDICIAL)

In the matter of Section 397-398 of the Companies Act, 1956

BETWEEN:

Mr. Sagar Ambadekar

... Petitioners

Versus

M/s Urban Genesis Infracom Pvt. Ltd.

... Respondents

PETITIONERS:

1. Mr. Sagar Ambedkar

RESPONDENTS

1. M/s Urban Genesis Infracom Pvt. Ltd.
2. Mr. Laxmikant Naikwadi
3. Mr. Subhash Kanawade
4. Mr. Mayur Kanawade

PRESENT ON BEHALF OF THE PARTIES:

1. Mr. Manish Pande- Practising Company Secretary for Petitioner
2. Mr. R. T. Rajguru- Advocate for Respondents

Order

Reserved on 27.09.2016

Pronounced on 25.10.2016

1. The Petitioner of C.P. 36 of 2014 is the Applicant of the Application under consideration. Both the parties are duly represented by the Ld. Representatives respectively.
2. Ld. P.C.S of the Petitioner has drawn my attention on an Order of CLB, Mumbai Bench, dated 27.04.2015 according to which a Resolution passed was restrained to be implemented until the next date of hearing without the prior approval of CLB. For Ready reference paragraph 3 of the said Order is reproduced below; *MKS*

“3. Heard on ad-interim prayers. Having considered the submissions advanced by the Ld. Counsels representing the rival parties, the Company is permitted to hold the EOGM on the scheduled date, time, place. However, the resolution passed thereat shall not be implemented until the next date of hearing without prior approval if the CLB.”

2.1. Ld. Representative has informed that the Respondent(s) have proceeded in-defiance of the said Order by providing certain names to the ICICI Bank which was in contravention of the said order. In short, he sought interim relief to issue directions to ICICI Bank, Bhandarkar Road, Pune, Maharashtra to furnish the resolution, if any and the details of the signatories so as to ascertain that on what basis the accounts were operated upon by the Respondent(s). Ld. Representative has also pleaded that a direction be issued to the Respondents to furnish Statements of Immovable and Movable assets and other details in respect of the properties transacted after the said order of the Hon'ble Board. It has also been informed that a huge amount of Rs. 53.44 Lakhs was also received by the Respondent No. 2 towards the cancellation of a land deal without informing the Petitioner.

3. From side of the Respondent No. 1 Ld. Representative strongly opposed the application on the ground that the behaviour of the Applicant was unwarranted and non-cooperative. Therefore, certain steps were taken to continue business activity of the Company. According to him there was no dis-obedience on the part of the Respondent Co. in respect of the said Order of CLB because the restrain Order was only in respect of the resolution which was allegedly passed under threat. According to his arguments there was no other restriction imposed to conduct the business of the Company (Respondent No. 1).
4. Arguments of both the sides have been heard carefully in the light of the facts narrated in the impugned application now under consideration. Although this fact cannot be ignored that the said Order of CLB was passed way back on 27.04.2015 and thereafter due to the statutory changes in the Companies Act the proceedings on this C.P. remained stand still, but whatever would be the circumstances, the directions to the parties by a court are expected to be obeyed and no law abiding citizen is permitted to defy the directions of the Court/Tribunal.

4.1. I am of the opinion that to safeguard the interest of the Petitioner/ Applicant as also keeping in mind the Business interest of the Respondent Company. it is justifiable to

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issue certain directions as an interregnum arrangement till further Order, as enumerated below;

- a. The Bank Authorities of ICICI Bank, Bhandarkar Road Branch, Pune, Maharashtra in respect of the Account No. 6240005017070 shall furnish the names of the person holding the Account, the date of the opening of the said Account and the related documents on the basis of which the said account was opened. Respondent No. 1 is hereby directed to collect this information from the Bank and place it before NCLT.
 - b. The Bank is also directed not to allow hefty withdrawals from the Bank without ascertaining the purpose for which the withdrawals are going to be used. The Routine withdrawals necessary for the day-to-day expenditure of the Company should only be allowed to be withdrawn from the Bank Account.
 - c. The Respondent No. 1 Company in C.P. 36 of 2015 is hereby directed to furnish a copy of the latest Balance-Sheet, Profit and Loss Account, Annexed Schedules and reports of the Auditor (if any) to the Bench and a copy to the Petitioner.
 - d. The Respondent No. 1 Company shall also furnish to NCLT the details of the transaction of any nature pertaining to the Immovable Property(ies) of the Company (Respondent No. 1) taken place after the order of the CLB, order dated 27.04.2015 (Supra).
5. By the issuance of these directions the main grievance in this Application (C.A. 72 of 2016) now stood redress and the Application is hereby decided accordingly.
 6. No order as to cost. The C.P. shall now be listed for hearing on 23.11.2016.

Dated: 25.10.2016

sd/-

Shri M.K. Shrawat
Member (Judicial)