

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI BENCH, MUMBAI  
T. C.P. No. 08 of 2012

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

In the matter of Companies Act, 1956 under Sections 397-398, 402 & 403.

AND

Between:

M/s. ELS Developers Pvt. Ltd.

.....Petitioner

V/s.

M/s. Emgee Housing Pvt. Ltd. & Ors.

.....Respondents

**Petitioner:**

M/s. ELS Developers Pvt. Ltd.

**Respondents:**

1. M/s. Emgee Housing Pvt. Ltd.
2. Mudhit Madanlal Gupta
3. M/s. Emgee Corporation Pvt. Ltd.

**Present on behalf of the parties:**

1. Mr. Rahul Moghe, Advocate for the Petitioner.
2. None present for the Respondent.

**ORDER**

(Heard on 06.10.2016)

On the last adjournment by seeing this CP pending from the year 2012, this Bench peremptorily directed these Respondents to reply to this Company Petition on or before 13.09.2016 but, till date, no reply has been filed.

Today, a person namely Mr. Ketan Pillaikar, claiming himself as Power of Attorney (PoA) to R2, has come up before this Bench with a power of attorney dated 02.11.2011 allegedly executed by one Mr. Modi Gupta who is cited as R2 authorising him to appear on behalf of all the Respondents. This PoA does not reflect anywhere that R2 is Director of R1 Company or that the other Respondents also authorised him to appear on behalf of them as well. Even if this PoA is assumed as authorizing this man to appear on behalf of Modi Gupta, he can at the best be assumed as PoA to R-2, not to others.

Moreover, this CP was filed on 07.08.2012, i.e. subsequent to the execution of this alleged PoA in favour of who Mr. Pallaikar. There is no PoA authorising Pallaikar to appear in this case, except a generalised authorisation.

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Mr. Pallaikar is not conversant with these proceedings. Today these Respondents made Mr. Pallaikar, who is not even properly authorised to represent R2, stand up before this Bench to take adjournment. This is indicative of casual approach of the Respondents towards this Bench.

For the reasons stated, all the efforts for completion of pleadings are being exhausted, this Bench, by invoking Rule 49 of NCLT analogous to Rule 2 of Order 17 of the CPC, hereby set ex-parte this case against the Respondents u/O. 9 of CPC to proceed with this case on the next date of hearing.

List this matter for hearing this Company Petition on 18.11.2016.

Sd/-

**B.S.V. PRAKASH KUMAR**

Member (Judicial)

Sd/-

**V. NALLASENAPATHY**

Member (Technical)