

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

C.P No. 75/(MAH)/2014
CA No. 31/2016

CORAM:

Present: SHRI B.S.V. PRAKASH KUMAR
MEMBER (J)

SHRI V. NALLASENAPATHY
MEMBER (T)

ATTENDENCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 23.09.2016

NAME OF THE PARTIES: M/s. IL & FS Trust Co. Pvt. Ltd.
V/s.
M/s. Dunar Foods Ltd.

SECTION OF THE COMPANIES ACT: 397/398 of the Companies Act 1956
and 241/242 of the Companies Act, 2013.

S. No.	NAME	DESIGNATION	SIGNATURE
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1.	Nilawa Bandyopadhyay, Adv	}	
2.	Mahesh Bansal, CA for Singh & Associates for Respondent No. 1-4, 6-16/20	}	

[Signature]

3.	Mr. Sharan Jastiani, Mr. Manav Kane, Mr. Rahul Kadam, Ms. Chitra Sundaram, Advocates. i/b W.S. Kare & Co. for Petitioners.		
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4.	Adv. Akash Menon i/b Adv. Ameya Golchale	Adv. for R5	
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[Signature]

Order

CA. 31/397-398/NCLT/MB/MAH/2016 in CP No. 75/397 398/CLB/MB/MAH/2014

The Petitioner filed an Amendment application to implead R21 who has involved in the acts subsequent to filing of this Company Petition, which are prejudicial to the interest of the Petitioner and the interest of the Company, therefore, the Petitioner herein has sought impleadment of M/s. Kathpalia & Associates as R21 in the paras as set out in the schedule 9A,

11A, 84A to 84U, 100A, 118A, 118D, 128A, 133A, 134A, 135 A, 139A, B, 144A, 151A, 156(d1), 156H, 162A, 166C1, 166(g1) to the original Petition. The counsel says that the acts impugned being consequent to the cause of action already prayed in the main Petition, he prays for impleadment of R21 and for amendment as stated in the application.

To which, the Respondents side filed reply saying that the Petitioners failed to mention the provisions of law governing the reliefs sought in the application and R21 shall not be impleaded before amendment of CP putting in allegations against R21. He has also raised another objection that when main Petition does not disclose cause of action there cannot be an amendment to the Company Petition devoid of cause of action.

On perusing the objections raised by Respondent Counsel, this Bench does not find any merit to say that amendment cannot be entertained for having not given correct section of law. As to second objection for amendment saying unless amendment is allowed R21 cannot be impleaded does not deserve any merit because the allegations against R21 are subsequent to filing Company petition.

This Company Petition has not come first time before this Bench, this Company Petition was already heard on Interim Reliefs and having considered that there is prima facie case, this Bench having already granted Interim Reliefs thereby it can't be canvassed at this stage that there is no cause of action in the main Petition. Moreover, the Petitioner Counsel has brought attention of this Bench various paras of main Company Petition reflecting cause of action for seeking the reliefs as mentioned in the main Petition. In view of the same this Bench hereby holds the paras sought for

amendment in the amendment application are nothing but cause of action incidental to the main Petition.

Therefore, this amendment application is allowed.

The Petitioner is directed to file amended Company petition within one week from hereafter. The Respondents side is directed to file reply to the amended Company Petition within four weeks thereafter, Rejoinder, if any within in three weeks thereof.

List this matter on 15.11.2016.

Sd/-

B.S.V. PRAKASH KUMAR
Member (Judicial)

Sd/-

V. NALLASENAPATHY
Member (Technical)