

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

I.A. NO. 28//2016

IN

C.P No.10/2016

***PRESENT: SHRI RATAKONDA MURALI, MEMBER JUDICIAL
SHRI. ASHOK KUMAR MISHRA, MEMBER TECHNICAL***

**IN THE MATTER OF THE COMPANIES ACT, 1956
UNDER SECTION 424 (2) (f) OF THE COMPANIES ACT, 2013**

Mr. HIMAYATH ALI KHAN & 3 OTHERS

Vs

M/S ASSOCIATE DÉCOR LTD. AND 24 OTHERS

ORDER

This Interlocutory Application is filed on behalf of the petitioners under section 424 (2) (f) of the Companies Act, 2013 read with Rules 11, 12, 32 and 51 of the National Company Law Tribunal Rules, 2016 praying the Tribunal to appoint Practicing Company Secretary of Bangalore as Court Commissioner for conducting local investigation by authenticating the statutory records of the company situated at its Registered office in No.1, Phase IV, KIADB Industrial Area, Huralagere Post, Malur-563160, Kolar District.

The learned Counsel appearing for petitioners would contend that there is urgency in the matter to appoint Commissioner to have local inspection and if prior notice is ordered petitioners will be put to irreparable loss and balance of convenience lies in favour of petitioners. The learned Counsel contended that, the Respondents allotted shares to themselves in violation of the order of the Hon'ble Apex Court and also against to the terms of allotment of land by the KIADB to the 1st Respondent Company. The counsel would contended that, 1st Respondent Company altered its managerial structure of shareholding pattern by inducting Darvesh Family and allowing Associates Holding Private Limited to take control of the 1st Respondent Company. The Counsel would contend that the 1st petitioner was Director and he was not called for Board Meeting. It is contended that 1st petitioner was Director of the 1st Respondent Company since its inception. It is contended earlier Agicha Family were not members of the company including Associates Holding Private Limited.

We have heard the counsel for petitioners at length. According to petitioners they are shares holders of the 1st Respondent Company and that there was fraud played on them and shares were allotted to some of the Respondents and it is in violation of orders of the Hon'ble Apex Court and against terms and conditions of allotment order of KIADB. It is contended that, 1st petitioner was not allowed to look into the records of the company and it is also contended that, there is an attempt to sell the 1st Respondent Company. So it is necessary to appoint Practicing Company Secretary to look into and authenticate the records. The Counsel for petitioners filed a memo containing the description of the records to be verified by the Practicing Company Secretary/Commissioner.

In the circumstances stated, there are grounds to appoint Practicing Company Secretary ex-parte to authenticate following statutory records:-

- 1) Articles and Memorandum of Association – Sec 4 and 5
- 2) Register of charges. Sec.85
- 3) Compilation of prospectus issued since inception Sec.26
- 4) Register of Share application and Allotment
- 5) Register and index of Members, Register and index of debenture holders. Register and index of beneficial owners. Sec.88
- 6) Offer letter under sec. 42
- 7) File containing notices of Board Meetings proof of sending notices, Attendances Register of the Board Meeting/general meeting/committee meetings. Sec. 173.
- 8) Annual Returns Sec.92
- 9) Books containing minutes of general meeting, file regarding proof of dispatch of notices and of Board and of Committees of Directors.
Sec 118
- 10) Report on Annual General Meetings Sec. 101 and 121
- 11) Register of Proxies and proxy files Sec 105
- 12) Counterfoils of share certificates and unused share certificates
- 13) Common seal of the company.
- 14) File containing letters of dissent from directors and members
- 15) Secretarial audit report from inception
- 16) Any other secretarial records.




Shri Manjunath Reddy, No.9, Manjushree, 3rd Floor, West Link Road, Malleshwaram, Bangalore-560003, Practicing Company Secretary is appointed as Commissioner for the above purpose. He is directed to serve notices on the petitioners and also on the Respondents who are available at the time of inspection at the Registered office of the 1st Respondent Company and inspect the above records in their presence and file his report by 9th December 2016. His fee is fixed at Rs 25,000/- (Rupees Twenty Five Thousand only) directly payable by the Petitioners.

Meanwhile, notices to the Respondents by 9th December 2016.


(RATAKONDA MURALI)
MEMBER, JUDICIAL


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL

DATED THIS THE 29th DAY OF NOVEMBER, 2016