

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

**I.A.No.12/2017
in
C.P.No. 10/2016**

UNDER SECTION 58 OF COMPANIES ACT 2013

**In the matter of M/s Himayath Alikhan & Others
Vs
M/s.Associate Décor Ltd & 24 others**

Order delivered on 18th August 2017

Coram: Hon'ble Shri Ratakonda Murali, Member (Judicial)
Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

For the Petitioner (s) Manik B.T..Advocate
For the Respondent(s) Vivekananda Advocate
Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)

Heard on:

04.12.16, 24.01.17, 28.02.17, 22.03.2017, 29.03.2017, 05.04.2017, 20.04.2017, 28.04.2017, 20/06/2017 and 21.07.2017

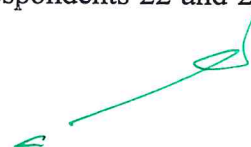
ORDER

Petition is filed under Rule 11 of NCLT Rules 2016 praying the Tribunal to direct the Respondents 1 to 21 to furnish the copies of Annexure filed by them to the main petition, to the applications filed by the petitioner in main petition and Objections filed to the Commissioner's report. It is averred in the affidavit of Farooq Ali Khan who is 22nd Respondent that the petitioner in main petition is his brother. It is averred there were disputes between him and his brother in respect of family properties. Thus his brother filed the present petition in collusion with other respondents. It is further averred that the first Respondent Company filed its Objections to the main petition, Commissioner's report and



Objections in IA Nos. 26/16, 27/16 and 29/16. Similarly Respondents 2 to 21 in the main petition also filed their Objections. It is averred Respondents do not furnish the copies of Objections along with Annexure to the 22nd Respondent on the ground he is not entitled for the same. However on a representation to the Tribunal Respondent 22 was directed to obtain certified copies of the same. Subsequently, Respondent 22 was informed by the Registry that copies of Annexure will not be given. Therefore this application is filed to direct Respondents to furnish copies of Objections filed by them and further a direction be given to Respondents 2 to 21 to produce all the originals of the documents relied by them.

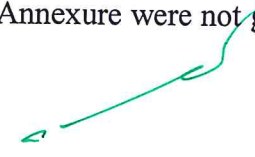
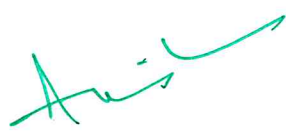
First Respondent Company in the main petition filed Objections to the application inter alia contending among others that Respondent No.22 who is the applicant had no locus standi to demand for supply of documents and Annexure to the pleadings. It is averred that applicant is a co respondent to the company and as such the applicant is not entitled for copies of documents and Annexure to the pleadings. The Respondent No. 22 is expected to answer to the pleadings of the petitioner in the main petition. The 22nd Respondent had not raised any claim against other respondents. It is averred Respondent No.22 was Managing Director from the date of inception of the company till 01.09.2016 and he was privy to all the documents produced by the Company along with his statement of Objections. The registered office of the company till February 2014 was at RT Nagar Bengaluru and this premise was owned by Respondent 23 and controlled by Respondent No.22 who was Managing Director of the Company at that time. In 2014 registered office of the Company was shifted to Malur where the company factory is located and Applicant / Respondent No.22 continued to be the Managing Director till 01.09.2016. The Annexure to the Company Petition are part of records of the Company and that Applicant / Respondent 22 was in full control of the Company. There is no collusion between petitioner in main petition and Respondents 1 to 21. There is collusion between petitioner in main petition and Respondents 22 and 23. The



present application is frivolous and aimed at stalling further proceedings. The company denied any collusion between it and other respondents. There is no obligation on the company to furnish copies of documents to other respondents. Already direction was given to Respondent 22 for obtaining certificate copies of Objections. There is no material in the case of applicant. Thus petition is liable to be dismissed.

Respondents 2 to 21 filed separate Objections. The brief averments of Objections filed on behalf of Respondent 2 to 21 that the petitioner in main petition is a proxy litigation at the behest of Applicant Respondent 22 and Respondent 23. It is averred Respondent 22 had access to all the records of the Company being Managing Director. It is averred the registered office of the company was originally located at RT Nagar Bengaluru till February 2014. This registered office premise was also the registered office of other companies owned and controlled by Respondent 22 and Respondent 23. It is averred that the documents filed by these respondents to the Company Petition and also to the IAs are of documents which are part of the company records. It is stated applicant is aware of the circumstances of the Annexure filed having access to the documents. The Applicant / Respondent 22 is harassing these respondents. It is further averred proceedings before the Tribunal are summary in nature. No ground is made out by Applicant justifying the request for production of originals / certified copies of documents filed as Annexures to the statement of objections. It is averred that petitioner has already obtained copies of Objections from the registry. The Applicant/Respondent 22 was the Managing Director of the Company till 01.09.2016 and he is very much aware of the affairs of the Company. There is no collusion as alleged between these respondents and petitioner in the main petition. Therefore it is prayed to dismiss the application.

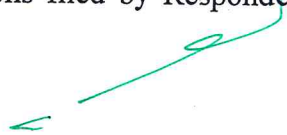

The Counsel for Applicant/Respondent No.22 filed reply to the Objections stating that copies of certified copies of Objections were granted but copies of Annexure were not given.



Therefore Applicant prays the Tribunal to give direction to the Respondents to furnish copies of Annexure. The present application was filed for direction to furnish copies of Annexure to the applicant. It is stated that Applicant /Respondent No.22 had access to all records of the Company in the capacity as Managing Director. It is denied that Respondent 22 was a party to the all documents filed by other respondents as he was Managing Director of the Company. It is contended that applicant is entitled for all copies of annexure filed along with objections.



Heard the Counsels for both sides.

This application is filed on behalf of Applicant/Respondent 22 seeking direction to other Respondents to furnish copies of Annexures filed along with their objections to the main petition and also to the IAs. There is no dispute Applicant obtained certified copies of the Objections filed by the Respondents 1 to 21. The contention of applicant that certified copies of Annexure filed by Respondent 1 to 21 were not given by the Registry on the ground they were of copies and not originals. Now the Applicant prayed the Tribunal to give a direction to the Respondent 1 to 21 to furnish the copies of Annexure filed by them and also to give a direction to the Respondent 1 to 21 to file originals of all Annexure. The contention of learned counsel for Applicant that applicant is entitled for copies being opposite party. The contention of learned counsel applicant as a matter of right is entitled for copies being the opposite party. On the other hand the contention of Respondent 1 to 21 Applicant is not entitled for copies of Annexures as applicant is not opposite party to them since Applicant and other Respondents together constitute opposite party to the petitioner in the main petition. The contention of learned counsel that Respondent 1 to Respondent 21 have to supply copies of their Objections and Annexure to their opposite party who are petitioners. Therefore the applicant cannot compel them to give copies of Annexure. It is an admitted fact Applicant/Respondent No.22 obtain certified copies of the objections filed by Respondent




No.1 to Respondent No.21. Registry rightly raised Objections that certified copies of originals cannot be granted. The certified copies can be given for original documents and not to the copies of original documents. Whether Tribunal can direct the other respondents to give copies of Annexure filed by them to the Applicant /Respondent No.22 who is arrayed as one of the respondents along with them. In other words, applicant / R22 is respondent but not opposite party to Respondent 1 to 21, where as petitioners in the main petition are necessarily opposite party to the Respondent 1 to Respondent 21. Therefore no direction could be given to the Respondent 1 to 21 to furnish copies of Annexure to the Applicant/ Respondent 22. Further Applicant/Respondent No.22 needs to answer the cause of petitioners and there is no obligation for him to meet the case of other respondents. On this ground Tribunal cannot direct Respondent 1 to 21 to furnish Annexure filed by them to the Applicant/Respondent 22. Tribunal cannot direct a party to file original documents at this stage. It is open to the parties' whether to file them or not.

It is the contention of Respondent 1 to 21 that Applicant was the Managing Director of the Company till 01.09.2016 and that he was privy to the documents which were filed by Respondents and that he was aware of these documents. The fact Applicant / Respondent 22 was Managing Director of the Company till 01.09.2016 is not denied. Of course Applicant /Respondent No. 22 denied any access to the documents and other records of the Company. While summing up since Applicant / Respondent No. 22 is not opposite party to the other Respondents. Therefore there is no need for other Respondents to furnish copies of Annexure to Applicant / Respondent 22. Secondly Applicant / Respondent.22 is to answer the case of petitioners and not the case of the other Respondents. Therefore there is no obligation on other Respondents to furnish copies of Annexure. It is sufficient if Applicant petitioner answers the case of petitioners. He has to met the case of petitioners but not the case of respondents. Therefore petition deserves to be dismissed.



9A12/17
In the result ~~petition~~ is dismissed.


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RATAKONDAMURALI)
MEMBER, JUDICIAL