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NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 11/07/2017 AT 10.30 AM

PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER-JUDICIAL
SHRI S. VIJAYARAGHAVAN, MEMBER-TECHNICAL

APPLICATION NUMBER : CA/ /2017

PETITION NUMBER : TCP/103/2016

NAME OF THE PETITIONER(S) : A. Shirany Gomez

NAME OF THE RESPONDENT(S) : Aanandham Property Developers Private Limited & 21 others

UNDER SECTION : 397/398, 402 and 403

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
REPRESENTATION BY WHOM			
1)	B.Dhananjay -	Counsel in C.A/Part in C.P -	<u>B.Dhananjay</u>
2)	Hitesh Kumar -	Counselor R3, 4, 6-11, 13, 16-18, 20-22 in CP	<u>Hitesh</u>
3)	R. RAMARUBRAMANIAM PAJA	COUNSEL FOR R12	<u>R. R. J.</u>
4)	M. Balaji Astro	R14 & 15	<u>M. Balaji</u>
5)	K. Bhasker	R2 + R5	<u>K. Bhasker</u>

ORDER

Counsel for petitioner present. Counsel for Respondents also present. Counsel for Respondents filed C.A.58 of 2017 in C.P.No 103 of 2016, praying for impleadment of the proposed Respondent viz., Mr.Rajagopalan, who has been the Auditor of 1st Respondent company on the ground that the records with regard to the 1st Respondent Company in relation to the accounts and books are not available as the same has been erased from computer and it is only the Auditor, who could be in a position to give true accounts in relation to the books and records of the 1st Respondent Company. The Counsel for petitioner filed reply in the application opposing the the same on the ground that the proposed respondent is neither necessary nor proper party to be impleaded. Further, it has been added that the proposed Auditor is also performing the job of audit in two more companies which are owned by Respondent/Applicant. Therefore, for all the time he has been under the control of the Respondent and in order to repel the allegations leveled in the company petition, the Respondent wants to implead the Auditor for getting informations against the Respondent/Petitioner.

Heard both the sides. The Applicant/Respondent No.2 has not been in a position to establish that the proposed Respondent

is a necessary or proper party to be arrayed as Respondent in the matter. As per his arguments the records of the 1st respondent company are not available and the Chartered Accountant being the Auditor of the 1st Respondent company could be in a position to throw light on the documents and transactions that have taken place in 1st Respondent company. But, it is not at all possible for an Auditor to remember the facts and figures for years in relation to the affairs and management of the company.

Moreover, the Auditor is not supposed to maintain ^{all} the records of the entity to which he is performing audit. In view of this, the C.A.58 of 2017 is devoid of merits and stands rejected. However, there is no order as to costs.

The Respondents have not filed counter in the main petition till date. One last and final chance is given for filing the counter, failing which, the right of filing counter shall stand forfeited. Accordingly, the Respondent is directed to file counter within two weeks and thereafter, within 10 days, the petitioner shall file rejoinder if any. Put up on 08.08.2017 at 10.30 A.M.

S. VIJAYARAGHAVAN
(S. VIJAYARAGHAVAN)
Member (Technical)

PAM

Sharief Tariq
(Ch. Md. Sharief Tariq)
Member (Judicial)