

**NATIONAL COMPANY LAW TRIBUNAL
DIVISIONAL BENCH
CHENNAI**

**ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 13/02/2017 AT 10.30 AM**

**PRESENT: SHRI K. ANANTHA PADMANABHA SWAMY, MEMBER-JUDICIAL
SHRI Ch. MOHD SHARIEF TARIQ, MEMBER-JUDICIAL**

APPLICATION NUMBER :
PETITION NUMBER : CP/9/2016
NAME OF THE PETITIONER(S) : T.O. Abraham
NAME OF THE RESPONDENT(S) : St Marys Hotels Pvt Ltd + 5 Others
UNDER SECTION : 241/242

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
REPRESENTATION BY WHOM			

1.] SNR. ADV. Joseph Lawrence B. Dharmaraj	- for R, 10 R ₆ -	<i>B. Dharmaraj</i>
2. P.S. Raman Sr. Adv. for Pushpa Menon	Counsel for Petitioner	<i>Kh & Kh</i>

ORDER


Counsel for petitioner present. Counsel for Respondents also present. In continuation of the previous orders, dated 13.01.2017, 25.01.2017 and 02.02.2017, the counsel for respondents has filed improved Memo on 10.02.2017 in relation to holding of EoGM. Counsel for petitioner has also filed the response to the memos filed by the Counsel for respondents.

Both the counsels made their submissions and they did agree for appointment of Hon'ble Mr.Justice (Retd) M.Ramachandran as Chairman of the proposed EoGM. His consent is said to have been received by the counsel for respondents. In relation to the appointment of independent valuers to determine the value of the shares of R1 companies, both the counsels have given names of the Chartered Accountants. But they did not agree to any one of the names given. Therefore, they have left to this Bench the choice for nominating/appointing independent CA for conducting valuation of the shares of R1 company. The counsel for petitioner raised certain issues, one is with regard to point No.2 of the Memo dated 10.2.2017(for short 'the memo') i.e., Appointment of Managing Director, stating that 2nd agenda may not be taken as a pretext for fixation of the salary of the Managing Director to which the counsel for respondents did agree. In relation to operation of the bank accounts of the company, the counsel for petitioner stated that the operation of old bank accounts be continued and the new bank accounts should not be operated any more. However, the funds are directed to be transferred to the old bank accounts from the new accounts. The respondents are directed to file monthly bank statements to this Bench by providing a copy to the other side.

The counsel for petitioner has also raised an issue pertaining to point No.4 of the memo i.e. the period of validity of Bar licence, stating that earlier licence has been issued in the name of the petitioner, which should remain continued till its expiry i.e. 31.03.2017. The counsel for respondents did agree to the same. The counsel for petitioner also raised some objections to represent litigation matter to which the counsel for respondents stated that only the Managing Director elected in EoGM will represent the litigation matters. At page 4 of the memo pertaining to Sec 102(1) of the Companies Act, 2013, the part of the sentence starting from "*for resolving the allegations raised in the company petition in respect of the Board Resolution dated 14.10.2016*" is to be omitted to which the counsel for the respondents did agree, and the same stands omitted.

In the light of the above, we appoint Mr. Justice (Retd) M. Ramachandran to be the Chairman for conducting the EoGM and to report the details thereof to this Bench. The Chairman is authorised to fix his remuneration as per the practice in vogue, which shall be borne by the petitioner and the respondents in the ratio of 50:50. The date of the EoGM shall be fixed in consultation with the Chairman and the same shall be conveyed to the petitioner through his counsel. The date for conducting the EoGM may be prior to 25th of February 2017. The venue and time of the EoGM shall be at Presidency Hotel, Ernakulam (North), Kochi at 11.00 A.M. The petitioner is permitted to place any agenda before the EoGM, which shall also be considered for taking appropriate decision.

Since, the parties have left the issue of the appointment of independent CA to this Bench for the purpose of valuation of the shares of R1 company. We, therefore, appoint M/s. Sundaram and Srinivasan for carrying out the audit in order to determine the value of the shares of R1 company, and to report to this Bench within a period of three months from the date, the order of this Bench is received. The petitioner during the previous hearings raised apprehensions of his removal from the directorship, to which the counsel for respondents ensures the continuation of the petitioner as director of the company till the disposal of the petition. Accordingly, the order of this Bench dated 4th November 2016 stands modified which shall be without prejudice to the contempt petition filed by the petitioner against the respondents. For further proceeding in the CP and the contempt petition, the next date is fixed on 03.03.2017 at 10.30 A.M.


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


(K. Anantha Padmanabha Swamy)
Member (Judicial)