

NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 09/1/2017 AT 10.30 AM

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

APPLICATION NUMBER :
PETITION NUMBER : CP/1/2017
NAME OF THE PETITIONER(S) : ABHIJIT SURLAKER + 1
NAME OF THE RESPONDENT(S) : AVEDA INFOTECH PVT LTD + 2
UNDER SECTION : 241/242 of the companies Act, 2013.

S.No. NAME (IN CAPITAL)
SIGNATURE

DESIGNATION

REPRESENTATION BY WHOM

① CIBI VISHNU	COUNSEL FOR PETITIONERS	he.
② S. GIRITHARAN	COUNSEL FOR RESPONDENTS 2 & 3	For S. Giritharan

ORDER

Counsel for petitioners present. Counsel for R2 and R3 also present. Counsel for R2 and R3 has filed counter that is placed on record. Counsel for petitioners has pressed hard for granting interim relief No.2, which pertains to granting of an injunction restraining R2 and R3 from in any manner carrying on any commercial dealings with the clients as detailed in Schedule-A to this petition, of 1st Respondent company.

We have heard both the sides and have perused the record including the counter. It has been alleged in the Company petition that R2 had evinced interest in acquiring entire shareholdings in the 1st Respondent company, but the proposal could not get materialised due to low price offered by R2. It is contended by the petitioners

that R2 with *mala fide* intention and *ulterior motive* had schemed and planned to divert the business and plans (the details of clients of R1 company is more fully described in Schedule-A to the company petition) of 1st Respondent company to R3 company (an entity owned and controlled by R2). It has further been averred by the petitioners that R2 was entrusted with the day to day affairs of running of Bengaluru office of 1st Respondent company and from Bengaluru office of 1st Respondent company, the revenue was generated. Of the 18 employees of 1st Respondent company, 15 employees functioned out of the Bengaluru office and all of whom have purportedly resigned *en masse* on the same day i.e. on 8th November 2016. On the very day they have been relieved by R2 and were allegedly engaged by R2 to run the affairs of R3 company. R2 has also resigned from 1st Respondent company ^{as director} on 9.11.2016. Counsel for petitioners has submitted that there is a mala fide intention of R2 to divert all the resources including the clientele of 1st Respondent company to R3 company wherein R2 is the Director, as reveals from the counter. Not only this, R2 has also opened the office of R3 company in the same premises where 1st Respondent company had established its office. The same is revealed from the Form INC 32 filed with the Registrar of Companies, Karnataka, available at Page 142 of typed set to main petition. In the counter, Respondents No.2 and 3 have denied all the allegations levelled in the company petition, and it has been prayed that the prayer of the petitioners for grant of interim reliefs be rejected.

The above noted factual aspects which have been stated by the petitioners are sufficient to show that the balance of convenience is in favour of the petitioners and in case the interim injunction is not granted, the 1st Respondent company is likely to suffer irreparable loss. The petitioners have also made out a prima facie case. In these circumstances, we are inclined to grant interim injunction by restraining Respondent Nos.2 and 3 from in any manner carrying on any commercial dealings with the clientele of 1st Respondent company as detailed in Schedule-A to the Company petition. The petitioners are directed to file rejoinder if any, by serving a copy to the other side, by the next date of hearing. Put up on 16.01.2017 at 10.30 A.M.


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


(K. Anantha Padmanabha Swamy)
Member (Judicial)