

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP NO. 245/424/HDB/2017
U/s 424 (3) of the Companies Act, 2013

In the matter of

N. Kasthur Reddy
S/o Veera Reddy
Residing at Flat 705, Emerald Block
Myhome Jewels Apartments
Madinaguda, Hyderabad - 500049

...Petitioner/
Decree Holder

Versus

M/s Prakjyothi Constructions Private Limited
Flat No. 301, Prakjyothi Highlands Apartment
Adjacent to PVNR Expressway, Pillar No. 212
Rajendranagar
Hyderabad - 500048

CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

... Respondent /
JDRs

Date of order: 13.11.2017

Coram

Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

Parties / Counsels present

For the Applicant : Mr. Mohd. Habibullah, Advocate

Per: Rajeswara Rao Vittanala, Member (Judicial)

ORDER

1. The present Company Petition bearing CP No.245/424/HDB/2017, is filed by Mr N. Kasthur Reddy (Petitioner / Decree Holder) under Clause 3 of Section 424 of Companies Act, 2013, in respect of decree dated



20.03.2017 under Rule 56 against M/s Prakjyothi Constructions Private Limited (Respondent/JDRs), by inter-alia seeking the Tribunal to allow execution petition filed by him by ordering attachment of the movable of the Respondent Company more fully described in Form NCLT 8 etc.

2. Brief facts, leading to filing of the present Company Petition, are as follows:-

(a) The Petitioner filed CP 73 of 2015 under Sections 397, 398 and 111A read with Sections 402 and 403 of Companies Act, 2013 seeking set aside of transfer of shares dated 22.03.2013 and rectify the Register of Members and restore membership of the Petitioner holding 2,00,000 shares of Rs. 10 each and other reliefs.

(b) This Tribunal, vide order dated 20.03.2017, set aside the transfer of shares dated 22.03.2013 and consequently directed the Respondent to restore the Membership of the Petitioner for total shares of 2,00,000 shares of Rs. 10/- each of the Company and consequently rectify the Register of Membership of the Company within 10 days from the receipt of the copy of the order.

(c) When the Respondent Company failed to comply with the order dated 20.03.2017 issued by this Tribunal, the Petitioner also issued a registered notice to the Respondent on 12.04.2017 requiring him to comply with the order dated 20.03.2017. The Respondent even after receiving the notice failed to comply with the order of the Tribunal. The Respondent filed an Appeal with NCLAT, New Delhi in CA (AT) No. 124 of 2017, which is however dismissed.



- (d) The Petitioner has also filed Appeal with NCLAT, New Delhi vide CA 148/2017 seeking full and complete consequential reliefs bearing benefits with retrospective effect which relief is in addition to relief awarded in CP 73 of 2015 by the Hon'ble Tribunal. The appeal is allowed by NCLAT and relief is awarded in addition to relief already granted by the Hon'ble Tribunal.
3. Heard Shri Mohammed Habibullah, Learned Counsel for the Petitioner.
4. The Learned Counsel for the Petitioner filed a memo dated 06.11.2017 by stating as follows:-

"It is humbly submitted that the Petitioner herein filed Execution Petition in the matter on 07.07.2017 under Clause 3 of Sec 424 of Companies Act, 2013, against the Respondents / JDRs seeking implementation of (1) order dated 30.03.2017 of Hon'ble NCLT: Hyderabad in the matter and (2) order dated 29.05.2017 of Hon'ble NCLAT: New Delhi. Subsequent to filing of the Execution Petition the Respondents scored part compliance with the order of NCLT alone by issuing a share certificate No. 23 dated 05.05.2017 bearing a face value of Rs. 20 lakhs received by us on 14.07.2017 and the order of NCLAT is yet to be complied by them.

In view of the above, we hereby withdraw the Execution Petition dated 07.07.2017 so as to file a fresh execution petition. Hence this withdrawal memo".



Therefore, the Learned Counsel submits that he may be permitted to withdraw the present Company Petition, with a liberty to file fresh petition later on.

5. In view of the above memo and submissions of the Learned Counsel, the Company Petition bearing CP No. 245/424/HDB/2017 is disposed of as withdrawn, by reserving liberty to the Petitioner to approach this Tribunal in accordance with law. No order as to costs.



Sd/-

RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

Sd/-

RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

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OF THE ORIGINAL


for Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER CP NO. 245/424/HDB/2017
निर्णय का तारीख
DATE OF JUDGEMENT 13.11.2017
प्रति तैयार किया गया तारीख
COPY MADE READY ON 14.11.2017