

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERBAD BENCH, HYDERABAD

C.A. NO. 77/2017 IN  
C.P. NO. 84/2012

Date of order: 08/05/2017

Between

Mr. Niranjana Agarwal  
S/o Mr. Ramswaroop Agarwal  
R/o Flat No. 710  
Varuna Block, My home Navdweepa  
Madhapur, Hyderabad – 500084  
& 3 Ors

....Applicants

And

Durga Liquor India Private Limited  
D.No. 8-2-602/C  
111 Hanging Gardens Road No.10  
Banjara Hills Hyderabad – 500034  
& 4 Ors

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OF THE ORIGINAL

....Respondents



**Parties Present**

Counsel for the Petitioner : Shri Y. Suryanarayana, Advocate  
Counsel for the Respondent: Shri Rahul Jain, PCS

**CORAM:**

Hon'ble Shri Rajeswara Rao Vittanala, Member (J)

**ORDER**

(As per Rajeshwara Rao Vittanala, Member (Judicial))

1. The present Application bearing CA No. 77/2017 is filed by Shri Niranjana Agarwal and others, under Rule 11 of

NCLT of 2016, by inter-alia seeking a direction to the Respondents to issue NOC for enhancement of FD N952193 dated 30.05.2013 of Union Bank of India, Ramkote, Hyderabad for an amount of Rs. 62 Lakhs and upon submitting the said NOC to the Registry of NCLT, Hyderabad, to direct the Registry to release the aforesaid FD in favour of the Applicants herein.

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

- (i) The Company Petition bearing CP No. 84 of 2012 was initially filed before the Hon'ble Company Law Board, Chennai u/s 397/398 and 402 of the Companies Act, 1956. The CP was finally disposed of by an order dated 31.05.2013, in terms of Memorandum of Compromise (MOC) dated 22.03.2013, however, subject to retaining the jurisdiction of Tribunal in respect of the two FDs deposited in the case and, parties are given liberty to apply only in respect of the two FDs.
- (ii) Accordingly, the Respondents of the company Petition (Durga Liquor India Pvt. Ltd and Ors) have filed CA No.1 of 2014 by inter-alia seeking a direction to pay a sum of Rs. 19,52,540/- out of Rs. 38 lakhs deposited. The Petitioners of the CP have also filed two CA Nos 1 & 2 of 2016 by inter-alia seeking a direction to release an amount of Rs. 31 Lakhs out of 62 Lakhs deposited and, to issue duplicate shares in question.



- (iii) Accordingly, the two CAs No. 1 & 2 of 2016 were disposed of by this Tribunal by an order dated 19/10/2016 with the following directions.

***"Para.15. In view of the above facts and circumstances of the case, and in order to put an end to the litigation in question, we do hereby direct the Applicants / Petitioners herein to ask the AAPL to lodge a police complaint with the concerned police station about the lost of Original share certificates of 36,443 shares of Respondent No.1 Company (DLIPL), beyond recovery and, get a certificate to that extent and also submit it along with necessary indemnity bond as required under applicable rule / law in the present situation, to the Respondents. The Applicants are also directed to take appropriate action to withdraw all".***



3. Now the present application is filed by seeking to further release mandatory conditions prescribed in the above order by raising several untenable pleas without complying the requirements made in the above order.
4. The Learned Counsel for the Respondents has filed a memo dated 25/04/2017, by inter-alia, contending as follows:-

- (a) A police complaint was filed on 15/09/2017, whereas Mr. Niranjana Lal Agarwal, the first applicant herein sent a prior date 10/8/2016 NOC to the Inspector of Police, Egmore Police Station, Chennai for issue of Non-traceable certificate. It is for AAPL to pursue

the matter, and thereafter only Mr Niranjan Lal Agarwal should give his indemnity bond along with AGIT in this regard. This has not happened so far, and so the Respondents could not release the Fixed Deposits in question.

(b) The indemnity bond required was not submitted to the Respondent Company, after pronouncement of the order in the above CAs. The indemnity dated 05/2/2016 is prior to withdrawal of the cases pending before various courts. There are two Execution Petitions bearing Nos. 107 of 2015 and EP No. 98 of 2015 in O.S.No. 49 of 2013, filed before the court of the Second Additional District Judge, Vijayawada, are still pending. So the directions of the Tribunal are not complied with so far by Applicants. The Applicants are repeatedly indulging in frivolous litigations with misleading statements, and thus the CA in reply is liable to be dismissed with exemplary costs.



5. Heard Shri Y. Suryanarayana, Learned Counsel for the applicants & Shri C.S. Rahul Jain, PCS for the Respondents, and have carefully perused all related documents with the present case.
- 6 It is not in dispute that the issue was settled among the parties, and same was recorded by the Bench and disposed of the main C.P. However, by not complying with the terms and conditions of their own



understanding of the parties, they are still resorting to filing applications on untenable grounds.

7. As stated supra, it is not in dispute that this Bench has passed a detailed order covering all the disputed issues and directed to comply the necessary requirements to carry out implementation of the settlement made by the parties. One of the directions, as stated supra, is that Applicants are to withdraw all suits pending against the Respondents.
8. As stated supra, the applicants have admitted that cases / suits are still pending against the Respondents. Though the matter is already settled between the parties, the applicants are raising frivolous issues without complying with the directions of the Tribunal passed in CA 1 & 2 of 2016 as extracted above. There is no ambiguity in the directions passed by this Tribunal in the CAs.
9. In the result, the CA bearing CA.No.77/17 in CP No.84/2012 is hereby dismissed by granting liberty to the parties to comply the terms and conditions as mentioned in the order dated 19.10.16. On compliance of the directions, the Registry is directed to return the original Fixed Deposits kept with them.
10. No order as to costs.



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OF THE ORIGINAL

V. Annapoorna  
V. ANNAPOORNA  
Asst. DIRECTOR  
NCLT, HYDERABAD.

Sd/-  
RAJESWARA RAO VITTANALA  
MEMBER (JUDICIAL)  
Order received by the Registry on 13/07/17