

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
AT HYDERABD

CA No.114 of 2017
In CP No. 25/241/HDB/2017
Under Rule 11 of NCLT Rules, 2016

In the matter of:

M/s. Ennes Capitals Pvt. Ltd & 19 others

...Petitioners/
Applicants

Versus

M/s. Boorugu Infra Projects Pvt. Ltd

...Respondent.14/
Respondent No.14



Order Pronounced on 04th January, 2018

CORAM:

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

Counsels / Parties Present

For the Applicants/Petitioners : Mr.S.V.RamaKrishna,
Advocate

For the Respondent No.14 : Y.Suryanarayana,
Advocate

Per: Rajeswara Rao Vittanala, Member (Judicial)

ORDER

1. The Company Application bearing CA No.114 of 2017 in CP.No.25/241/HDB/2017 is filed by M/s Ennes Capitals Pvt. Ltd and 19 others Under Rule 11 of the NCLT rules 2016 by inter-alia seeking following relief:
 - a. Furnish copies of Asset Register, list of items of furniture and fixtures, inward and outward Register, Minutes Book of share Transfer Committee, Board of Directors, AGMs and EGMs together with relevant Notices, proof of service of notices etc, from 1st January, 2014 till now
 - b. Copies of Circular emails exchanged for and on behalf of 1st Respondent Company (both through email ids: hse11943@gmail.com and ksk@vplindia.com since 1st January, 2014 onwards till now.
 - c. Correspondence exchanged with Airports Authority of India, GHMG, ULC & Land Acquisition Compensation Authorities relating to affairs of the 1st Respondent Company including applications for various approvals/permissions from different statutory authorities in respect of property of the 1st Respondent Company.
 - d. Copies of Bank Account Statements and Bank Reconciliation Statements of the 1st Respondent Company since 1st January 2014 onwards till now.
 - e. Entire copies of correspondence exchanged with the Respondent no.19 (Kotak Mahindra Bank) including instructions for transfer of shares and payments of monies from the Escrow Accounts of Respondent No.14 (M/s. Boorugu Infra Projects Pvt. Ltd)



2. Dr.S.V.Rama Krishna, Learned Counsel for the petitioner has inter-alia contended the Respondent No. 1 to 3 in connivance with the other respondent in CP caused demolition of valuable building having Cellar+Ground+6 upper Floor with about 500000sqft. Area acquired at huge cost by the 1st Respondent Company. The affairs of the 1st Respondent Company are not transparent, and many shady underhand dealings, criminal conspiracy, siphoning off funds, and money laundering, benami transactions are apprehended. As many important documents connected with the various events are under the control of the Respondents, and for proper justice in the matter, they required to be produced in the Hon'ble Tribunal and copies made available for the Applicants/Petitioners.

3. Mr. Y.Suryanarayana, Learned counsels for the Respondent No.14 has opposed the Company Application by filing the counter dated 11th August 2017 by inter-alia contended as follows :

- a) The Company Petition itself is liable to be dismissed in limini as the petitioner failed to meet the minimum requirement to initiate proceedings against the respondents U/s. 241 to 244 of the companies Act 2013.
- b) It is stated that Ram Swaroop Agarwal (Petitioner No.17) who holds the power of attorney for all other petitioners, was a Board member of the 1st Respondent Company at the time, when the proposal for the sale of property was considered. The entire Board collectively recommended the resolution for conducting postal ballot for the sale of properties at Somajiguda and Himayatnagar and the same was approved for the benefit of



shareholders. The outcome of the said postal ballot and scrutinizers report were duly considered and approved by the Board

- c) The Board authorized Respondent No.2 & 3 to finalize the development agreement in question. The Applicants are filing frivolous applications as per their convenience. The records sought by the instant applications are Administrative records and not for public reviewing and they are not require to be shared with the entire members. However, any member wishes to inspect any particular record, he can inspect those records which will be made available. Therefore, the company application is liable to be dismissed.

4. We have considered the pleading of both the parties along with connected case records. The main Company petition was filed during March, 2017 and an interim order was initially passed on 22.03.17, which was subsequently vacated by an order dated 13.04.2017. Subsequently, several proceedings have been initiated by the parties, and some of Company Applications are also disposed of. Impleading to join as one of the Petitioners have also filed and subsequently, it was withdrawn. Similarly, several applications viz 114,115 of 2017 etc., are also filed by the Applicants/Petitioner. The Tribunal has considered the matter at various levels and found that various applications filed in the case, especially after vacating the interim order, are not substantiated. Even the maintainability of main Company petition apart from other things have be considered in the main Company petition. Since the Petitioner has not made out any prima facie case to extend interim orders in question, we have, subsequently vacated them by a reasoned



order dated 13.04.2017. The applicants/Petitioners, instead of getting ready to argue the case, are trying to making out a case , by filing frivolous applications by seeking several documents/records etc. The Tribunal is empowered to call for relevant record at appropriate time, if the litigant able to make out a case. In instant case, the applicants/petitioner as stated supra, even not entitled for continuation of interim initially passed in the case. Therefore, the application is liable to be dismissed with costs. However, the learned Counsel for the Applicants have pleaded that imposing Costs coupled with dismissal of application would be too harsh and double jeopardy. By considering the plea learned counsel, we are refrained from imposing costs.



5. In the Result, the Company Application in bearing CA No.114/2017 in CP No.25/241/HDB/2017 is hereby dismissed. No order as to cost.

Sd/-
RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

Sd/-
RAJESWARA RAO VITTANALA
MEMBER (JUDICIAL)

for *G. Anantha Lakshmi*
Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY

केस संख्या
CASE NUMBER. CA No. 114 of 2017 in CP No. 25 of 241/HDB/2017
निर्णय का तारीख
DATE OF JUDGEMENT. 4.1.2018
प्रति तैयार किया गया तारीख
COPY MADE READY ON. 2.2.2018