

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

55

C.P. No. 267/(MAH)/2017

CORAM:

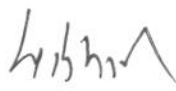


Present: SHRI B.S.V. PRAKASH KUMAR
MEMBER (J)

SHRI V. NALLASENAPATHY
MEMBER (T)

ATTENDENCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 17.07.2017

NAME OF THE PARTIES: Manik Kodre & Ors.
V/s.
Magic Glass Pvt. Ltd. & Ors.

SECTION OF THE COMPANIES ACT: 397-398 of the Act 1956 & 241-242 of
the Companies Act, 2013

S. No.	NAME	DESIGNATION	SIGNATURE
①	MAHESH ATTHAVALE	PCS for Petitioners	
②	Manik Kodre	Petitioner-1	
③	Nitish Kodre	Petitioner 3	

ORDER

CP No. 267/241-242/NCLT/MB/MAH/2017

The professional on the Petitioners' behalf says that the Petitioners have 9.5% shareholding in the company but, by number, they being more than 10%, the Petitioners filed this Company Petition submitting that the Respondents herein passed a Board Resolution on 13.06.2017 to hold Extra Ordinary General Meeting on 18th July 2017 at 11:00 a.m. for removal of Petitioner No. 1 & 2 as directors and also to amend Articles of Association, which is oppressive and prejudicial to the interest of the petitioners.

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The Petitioner's Counsel submits that the company has been constituted amongst friends, since these Petitioners happened to be Promoters, they have entered into an understanding to start this company with their requisite participation in the management, therefore, on seeing sudden proposal for removal of the Petitioners 1 & 2 without any reasons, the professional prays this Bench for staying of the meeting to be held on 18.07.2017.

It seems that the Petitioners' notice, in respect to filing this case, has been perhaps not reached to the Respondent, therefore the respondents might not have appeared today. However, on hearing the submission of the professional of Petitioner stating that the proposal for removal of the Petitioner 1 & 2 is prejudicial to the interest of the Petitioner for the reason that they have already given personal guarantees for a loan of ₹13 crores, if at all these Petitioners 1&2 are removed as Directors, they will not have any access to know what is happening to the funds of the company, that apart these petitioners already put it to the notice of the company about missing information in relation to crores of rupees.

In view of the submissions of the professional, this Bench having seen prima facie case in the arguments of the professional appearing on behalf of the petitioners, this Bench hereby directs the Respondent Company not to give effect to the resolution going to be passed on 18.07.2017 until next date of hearing. Since the Respondents side is not present, this order is limited to next date of hearing only. This Order is passed with a liberty to the Respondent to seek for vacation of this Order in case the facts are otherwise to the submissions above recorded.

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The Petitioners' professional is hereby directed to communicate next date of hearing to the Respondents within 3 days and file proof of service within 5 days hereof.

List this matter for hearing on 25.07.2017.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

B.S.V. PRAKASH KUMAR
Member (Judicial)