

35

NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI

C.P No. 405/(MAH)/2017
M.A. No. 403/2017 & 404/2017

CORAM:

Present:

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

SHRI V. NALLASENAPATHY
MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 22.09.2017

NAME OF THE PARTIES: P. Ramani
V/s.
Dharmishta Mithran & Ors.

SECTION OF THE COMPANIES ACT: 241 of the Companies Act, 2013.

S. No.	NAME	DESIGNATION	SIGNATURE
1)	MR. ASHISH KAMAT	COUNSEL	HHAshish
2)	MR. KUNAL MEHTA	COUNSEL	
3)	MS. HENNA DALLAT	ADVOCATE	
4)	MS. KOMAL KHUSHALANI	ADVOCATE	
5)	MR. RAUNAK SAMDANI	ADVOCATE	
6)	MR. ANIRAN GHOSHAL	ADVOCATE	
I/b M/S. CRAWFORD BAYLEY & CO.			
ADVOCATES FOR REASON RESPONDENTS			

1. MR. AKASH MENDON ADVOCATE
FOR THE PETITIONER

PETITIONER MR. P. RAMANI
PRESENT IN PERSON

ORDER

MA 403/2017 & 404/2017 in CP No.405/ I&BP/NCLT/MB/MAH/2017

The Petitioner with the support of six consenters, has filed this Company Petition under Section 241 of the Companies Act, 2013 against R1 Company, which is the Company

Contd...2/-

MA 403/2017 & 404/2017 in CP No.405/ I&BP/NCLT/MB/MAH/2017

incorporated under Section 8 of the Companies Act, 2013, and other persons as 11 Respondents, who are in the management of the Company, with a grievance that these people have been mis-managing the affairs of the company prejudicial to the interest of the members of the company.

The main thrust of the Company Petition is that the auditor has given an adverse opinion holding that the accounts of the company are not being properly maintained, funding as well as expenses the company incurring have not been properly recorded, whereby this Petitioner has sought for postponement of the Annual General Meeting scheduled to be held on 28.9.2017 with a direction for reconvening the same after the books of the company reconciled, rectified and/or prepared in accordance with law and to the satisfaction of the independent statutory auditor.

To which, the Counsel appearing on behalf of the Respondent has submitted that all these points highlighted by the Petitioner Counsel have been duly answered in the Executive Committee Report, therefore, nothing is left to be doubted now, however, the Counsel has further submitted that all these accounts will come before General Body Meeting scheduled to be held on 28.9.2017, so as to get the approval of the majority.

That apart the Counsel has further stated that the Petitioner alongwith the consenters are admittedly not qualified to file this Petition as their number is less than 1/5th of the total number of members, whereby unless waiver application filed by this Petitioner is decided, no relief shall be granted to the petitioner at this juncture.

In view of the submissions made by both sides, since it is an admitted fact that this petition is not maintainable unless waiver plea is accepted by this Bench, the Respondent side is hereby directed to file reply to the waiver application within 15 days hereof and rejoinder if any, within 15 days thereof, in the meanwhile, R1 can proceed with the Annual General Meeting subject to the outcome of this Company petition.

List this matter on 31.10.2017.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

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