

IN THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL

NEW DELHI

Company Appeal (AT) No. 78 of 2017

Malaxmi Infra Ventures (India) Pvt. Ltd. & Anr. Appellants

Vs.

Brahmani Infratech Pvt. Ltd. Ors. Respondents

Present: For Appellant: - Mr. Yogesh Raavi, Advocate

For Respondents: - Mr. Y.Suryanarayana for R-1 to 6

23.03.2017- In this appeal, by impugned order dated 31st January 2017 in C.P.No. 42 of 2017, the National Company Law Tribunal, Hyderabad Bench (hereinafter referred to as the 'Tribunal') held that the C.P. No. 42 of 2017 is maintainable only with respect to 1st petitioner – Mahalaxmi Infra Ventures (India) Pvt. Ltd. w.e.f. 21st March 2011 and in regard to the 2nd petitioner (2nd appellant herein) the said Company Petition is not maintainable.

After some arguments, learned counsel for the appellants sought permission to withdraw the appeal to enable the appellants to file a fresh Company Petition under section 241 and 242 of the Companies Act 2013 with regard to 'Oppression and Mismanagement if committed after the appellants become the shareholders of the company.

Learned counsel for the appellants further submitted that in the meantime, as ordered by the Tribunal in the impugned order dated 31st January 2017, 2nd appellant be allowed to continue as director.

Learned counsel appearing on behalf of 1st to 6th respondents raised objection with regard to prayer made for continuance of 2nd appellant as director of the company and informed that they have filed a separate Company Appeal(AT) No. 57 of 2017 before this Appellate Tribunal challenging such part of the impugned judgement.

Having heard learned counsel for the parties while we allow the appellants to withdraw the appeal with liberty to file a fresh petition under section 241 and 242 of the Companies Act 2013, if there is any 'Oppression and Mismanagement' taken place after they become the shareholders of the company, we do not express any opinion with regard to the impugned order dated 31st January 2017 whereby the 2nd appellant has been directed to continue as the director, which may be looked into in Company Appeal (AT) No. 57 of 2017.

We make it clear that we have not expressed any opinion in regard to the petition as may be preferred by the appellants in future and if such petition is filed, the Tribunal will decide the same on its own merit uninfluenced by the impugned order and the order of the Appellate tribunal.

The appeal stands disposed of as withdrawn and with the aforesaid observations.

(Justice S.J. Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member(Technical)

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