

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Company Appeal (AT) No. 244 of 2017**

**IN THE MATTER OF:**

**Urban Sancturies Developers  
Pvt. Ltd. & Ors.**

**...Appellants**

**Vs.**

**Mr. Sunil Parmanand Kewalramani & Anr.**

**...Respondents**

**With Company Appeal (AT) No. 245 of 2017**

**Modilite Holdings Pvt. Ltd. & Ors.**

**...Appellants**

**Vs.**

**Mr. Sunil Parmanand Kewalramani & Anr.**

**...Respondents**

**Along with Company Appeal (AT) No. 246 of 2017**

**Kestral Import & Export Pvt.  
Ltd. & Ors.**

**...Appellants**

**Vs.**

**Mr. Sunil Parmanand Kewalramani & Anr.**

**...Respondents**

**Present: For Appellants: - Mr. Sameer Chaudhary and Mr. Harshit  
Agarwal, Advocates.**

**ORDER**

**04.08.2017-** These three appeals have been preferred by three sets of appellants against common order dated 23<sup>rd</sup> June 2017 passed by National Company Law Tribunal, Mumbai Bench, Mumbai in C.P.Nos.

223/(MAH)/2017, 225/(MAH)/2017 and 224/(MAH)/2017. They are disposed of at the admission stage for the reasons as discussed below: -

2. Common respondents Mr. Sunil Parmanand Kewalramani and Ms. Shalini Sunil Kewalramani filed three separate petitions under Section 169 of the Companies Act, 2013 against three different Appellant(s)-Companies with prayer for Interim Relief, as quoted below: -

*“(i) Stay the Board Meeting of Respondent No. 1 Company, which is scheduled to be held on 26<sup>th</sup> June 2017, pursuant to the Special Notice dated 13<sup>th</sup> June 2017 and the Notice for Board meeting dated 13<sup>th</sup> June 2017;*

*(ii) Restrain Respondent Nos. 2 to 5 from removing the Petitioners from the Board of Directors of Respondent No. 1 Company;*

*(iii) Issue such further and other orders of directions as this Hon’ble Tribunal may deem fit and proper.*

3. The Tribunal having heard Learned Counsel for the parties observed: -

*“The only injunction sought for pertains to removal of Directors, but in my opinion, if at this preliminary stage the same is accepted may tantamount to approval of allegations made against those two Directors without considering the merits or demerits. The allegations of fraud etc. are*

*subjudice hence yet to be decided only after proper hearing of the case.”*

4. Though aforesaid observation was made, the Tribunal passed the following Interim Order: -

*“On due consideration of the facts stated in the Petition, interim relief is granted as follows: -*

*(a) The Agenda (A) and (B) for removal of Mr. Sunil Kewalramani and Mrs. Shalini Kewalramani shall not be placed for approval before the Board of Directors on the meetings scheduled on 26<sup>th</sup>/27<sup>th</sup> June 2016*

*(b) Rest of the Agenda concerning normal business of the Company shall be placed for requisite approval before the Board as per law.*

*(c) Petitioner No.1 and 2 as Directors shall not interfere in day-to-day affairs of the Company. Both the said Directors shall cooperate with other Directors to run the Companies efficiently in the best interest of the stakeholders.*

*(d) Both the Petitioners shall therefore go with the majority view of other Directors if the view is in the welfare of the business of the Company.*

5. Learned Counsel for the appellant(s) submits that Tribunal has no jurisdiction to pass any Ad-Interim Injunction Order in an application

under Section 169 of the Companies Act 2013. However, we are not deciding such issue at appellate stage as from paragraph 6 of the impugned order we find that the Respondent(s)/Petitioner(s) were directed to serve copies of their respective petitions on the respective appellants, meaning thereby the copy was not served on the appellants before passing of the impugned order dated 23<sup>rd</sup> June 2017, and thereby appellants missed the opportunity to respond properly, at the stage of passing Interim Order.

6. For the reasons aforesaid, instead of notice to the Respondent(s)/Petitioner(s), for present we give liberty to the appellants to file their respective Interlocutory Application for recall of the impugned order or to vacate or to modify the Interim question of law as raised before this Appellate Tribunal. In such case, if any application is filed, the Tribunal will decide the application. If so necessary, on the next date the Tribunal may adjourn the case for one week to give an opportunity to the respondent(s)/petitioner(s) to reply.

7. We may observe that we have not decided the question as raised about the jurisdiction of the Tribunal in the matter of passing an Ad-Interim Order in an application under Section 169 of the Companies Act 2013 and whether in spite of the observation as made in the 1<sup>st</sup> part of paragraph 5, it was desirable to pass any Interim Order, which may amount to grant of final relief by continuing the respondent(s)/Petitioner(s) as Directors.

8. All the appeals stand disposed of with the aforesaid observations and directions. However, in the facts and circumstances of the case, there shall be no order as to cost. Learned counsel for the appellant will serve a copy of this order on Learned Counsel for the respondent(s).

**(Justice S.J. Mukhopadhaya)**  
**Chairperson**

**(Mr. Balvinder Singh)**  
**Member(Technical)**

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