

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 185 of 2017

IN THE MATTER OF:

MSPL Limited

... Appellant

Vs.

NMDC Limited & Ors.

... Respondents

Present: **For Appellant:** - Shri Tarun Gulati, Mr Kishore Kunal and Mr Prashant Tahiliani, Advocates.
For Respondent No. 1: Ms Priya Kumar, Mr Adhish Srivastava and Mr Tejas Chhabra, Advocates.
For Respondent No. 14: Ms Ruchi Singh, Advocate.

O R D E R

27.07.2017 - This appeal has been preferred by Appellant against order dated 20th March 2017 passed by National Company Law Tribunal (hereinafter referred to as Tribunal), Hyderabad Bench in C.P. No.615/111A/CB/2012 (T.P. No. 116/HDB/2016) whereby and whereunder the Tribunal rejected the application filed by the Appellant under Section 111A of the Companies Act, 1956.

2. In this appeal it is not necessary to discuss all the facts except the relevant one for the reasons as recorded below.

3. According to the Appellant it purchased 2900 equity shares of 1st Respondent company (NMDC Limited) in between the years

2006-08 on a face value of Rs.10/- from Respondent Nos. 3 to 13. Shortly thereafter, the Appellant misplaced all the documents pertaining to the purchase of 2900 equity shares. In the meantime, the 1st Respondent company sub-divided the face value of the equity shares or Rs.10/- to Rs1/- per share with record date of 21.4.2008. Subsequently, the 1st Respondent company issued bonus shares in the ratio of 2:1 viz., two new shares of Rs.1/- each for every one old share with record date fixed at 22.5.2008. As on the said date as no split shares have been issued in the name of the Appellant, the Appellant was aggrieved. However, as the Appellant has misplaced the documents pertaining to purchase of 2900 equity shares. When the Appellant found the misplaced documents pertaining to the purchaser of 2900 equity shares, the Appellant vide their letter dated 23rd August 2010 requested 'Aarthi Consultants Private Limited' (2nd Respondent) to register 2900 equity shares in the name of the Appellant with further request to issue sub-divided equity shares and bonus shares as declared by Respondent No. 1.

4. Ld. Counsel for the Appellant submitted that despite the fact that they were pursuing the matter, the Respondent rejected their request for rectification stating that the bonus shares were already issued to the registered shareholders on the recorded date as was fixed by Respondent No.1. Thereafter the Appellant preferred application under Section 111A of the Companies Act, 1956 seeking Rectification of Register of Respondent no. 3 to 13 through attorneys of transfer agents, 'Aarthi Consultants Private Limited' was not to alienate or dematerialise the bonus shares and to transfer the same in favour of the Appellant.

5. Ld. Counsel appearing on behalf of the Appellant submitted that these shares were purchased from different Respondents who were staying at different places. The original petition was filed before the erstwhile Company Law Board, Chennai Bench, Chennai. After constitution of the Tribunal, the matter was transferred to the Hyderabad Bench of the Tribunal. The Tribunal, by impugned order judgement observed that as the shares were purchased from persons, who are residing at different places, the Appellant should prefer separate applications before the respective Benches of Tribunal. According to the Ld. Counsel for the Appellant, as the shares purchased was of 1st Respondent company situated at Hyderabad, the petition was maintainable and the Tribunal, Chennai Bench had rightly transferred the petition to the Hyderabad Bench of Tribunal.

6. The argument advanced on behalf of the Appellant appears to be attractive but we are not inclined to grant any relief for the reasons shown below.

7. The Appellant claimed that it purchased 2900 equity shares between 2006-08 and shortly thereafter misplaced all the 2900 shares. However, such averment is not based on record. There is nothing on record to suggest that the shares were misplaced by the Appellants. Neither any date or period of misplacement has been shown nor the Appellant filed any FIR in any Police Station. Further, we find that the Appellant had not brought this matter to the notice of 1st Respondent company or transfer agents, 'Aarthi Consultants Private Limited' (2nd Respondent). Such plea has been taken by Appellant only to explain the latches on its part is also apparent from the stand taken by Appellant that they could

tract out the shares in their office. This shows that the equity shares were lying with the Appellant in their office but for the reasons best known to the Appellant it did not choose to apply for transfer the share in its name.

8. Section 111A of the Companies Act, 1956 relate to rectification of Register of Transfer. Sub-section (1) stipulates that the shares or debentures and any interest therein of a company shall be freely transferable. As per this sub-section (2) the shares or debentures and any interest therein of a company shall be freely transferable provided that if a company without sufficient cause refuses to register transfer of shares within two months from the date on which the instrument of transfer or the intimation of transfer, as the case may be, is delivered to the company, the transferee may appeal to the Tribunal and it shall direct such company to register the transfer of shares.

9. In this case apart from the latches on the part of the Appellant between 2006-08 even thereafter, between August 2010 and 2012, the Appellant did not choose to move any application, though the cause of action took place two months since 23rd August 2010 when the request of the Appellant to transfer the share in its own name was accepted. As the Appellant sat over the matter for more than 4-6 years and did not choose to move for transfer of shares in its favour and all the time the company recognised the original shareholders as the shareholders and issued the bonus shares in their favour who are now opposing the Appellant and as the Appellant has not come with clean hand and mislead that the documents were lost but again found in their office after two years, we find that it is not a fit case to grant relief.

10. For the reasons aforesaid, we are not inclined to interfere with the impugned order and the appeal is accordingly dismissed. There shall be no order as to cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Balvinder Singh)
Member (Technical)

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