

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 39 of 2017

IN THE MATTER OF:

M/s. A.J. Prakashan Pvt Ltd & Anr ... Appellants
Vs
Smt. Poonam Gupta & Ors Respondents

Along with Company Appeal (AT) No. 40 of 2017

M/s. Shashwat Printers P Ltd & Anr ... Appellants
Vs
Smt. Poonam Gupta & Ors Respondents

**and
Company Appeal (AT) No. 41**

M/s. Jnanamandal Ltd & Anr ... Appellants
Vs
Smt. Poonam Gupta & Ors. Respondents

Present: For Appellants:- S/Shri Devashish Chauhan and Dhruv Gautam, Advocates

For Respondents:- Shri Shobhit Chaudhary, Advocate.

ORDER

2.03.2017 — In these appeals as similar orders all dated 30th January 2017 are under challenge they are heard together and disposed of by this Common Order. By the impugned orders, the National Company Law Tribunal, Allahabad Bench, Allahabad (hereinafter referred to as Tribunal) reiterating the earlier directions issued by the erstwhile 'Company Law Board' dated 8th January 2016 and 4th March 2016 allowed the Respondents to inspect the records of the respective companies in the presence of the Regional Director,

Northern Region, Ministry of Corporate Affairs, Lucknow. The Office of the Regional Director, Northern Region, has been directed to inform the police officers, if so necessary, seeking cooperation to maintain the law and order position in completing the task and for smooth conduct of the inspection of records.

On bare perusal of the orders, we find that there is a dispute between the members of the family. Respondents, wife and two sons have filed different Company petitions under Section 397 and 398 of the Companies Act, 1956 alleging oppression and mismanagement by the 2nd Appellant, husband/father.

The Company Petitions were filed in the year 2012 before the erstwhile Company Law Board and remained pending. In an application filed by the Respondents, the Company Law Board by order dated 8th January 2016 allowed the Respondents to inspect the records and the Appellants were directed to provide inspection to the Respondents'-Petitioners within 15 days. For one or other reason inspection could not take place. While one party allege that the other party had not reported within the time, the other party allege torture and coercion. The earlier orders were followed by orders add dated 4th March 2016 wherein the Company Law Board reiterated its earlier direction and allowed the Respondents to inspect the records.

Second time also for some dispute, the inspection could not take place. This resulted in filing fresh applications in each of the petitions and the Tribunal by impugned orders all dated 30th January 2017 allowed inspection of records of each of the companies with direction to Appellants', to allow them to inspect in the presence of Regional Director, Ministry of Corporate Affairs, Northern Region.

Ld. Counsel appearing on behalf of Appellants submits that the Respondents are not directors and therefore they are not entitled for

inspection. On the other hand, according to the Counsel for the Respondents, they have right to inspect as they were directors at the time of filing of the petitions.

In these appeals we are not inclined to deliberate on the issues as to whether the Respondents are directors or not and whether the Company Petitions are maintainable. It is required to be decided by the Tribunal taking into consideration the relevant facts and after hearing the parties. We have noticed that the Company Petitions are pending for more than 5 years. One after another order has been passed for inspection of records and because of the family dispute between father on the one hand and mother and two sons on the other hand the inspection could not take place.

Under Section 422 of the Companies Act, 2013, the Tribunal was required to dispose of the petitions within 3 months. In case of failure the Tribunal was required to give grounds for not disposing the petition within the time frame and after permission of the President of National Company Law Tribunal, was required to dispose of the petitions within the extended period. Now after constitution of the Tribunal, about 9 months have passed but the matters are pending at the same stage as was in the year 2012.

In the facts and circumstances of the cases, while we are not inclined to interfere with any of the impugned order (s) dated 30th January 2017, direct the parties to complete the inspection in the presence of Regional Director, Northern Region within three weeks. The Regional Director is directed to ensure inspection of records within the time scheduled. After three weeks, the Tribunal without granting further time for inspection will deliberate into the merit of the cases and if so required, direct the appellants to produce all the relevant records.

It is informed that there are two other Company Petitions pending before the Tribunal between the same parties in respect of two other companies. The Tribunal will make endeavor to dispose off all of them together, on an early date. All the appeals stand disposed of with aforesaid observations and directions. No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member (Technical)

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