

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI

Company Appeal (AT) No. 29 of 2021

IN THE MATTER OF:

Solar Industries India Ltd.

...Appellant

Versus

Kailash Chandra Nuwal&Ors.

...Respondents

Present: -

For Appellant: Dr. Abhishek Manu Singhvi and Mr. S.N. Mookerjee, Sr. Advocates with Mr. AvishkarSinghvi, Mr. Azeen, Mr. Gopal Sawal and AnshulaLaroiya, Advocates

For Respondent: Mr. Arun Kathpalia, Sr. Advocate with Mr. VijayendraPratap Singh, Mr. A Jalan, Mr. Atul N. Ms. Urvashi Misra, Ms. Simran Bhat, Mr. Arnab Ray and Mr. Anant Narayan Misra, Advocates.

O R D E R
(Virtual Mode)

25.02.2021 Heard Learned Sr. Counsel Dr. Abhishek Manu Singhvi, on I.A. No. 348 of 2021 an Application for stay of the impugned order dated 09.02.2021 passed by the Ld. NCLT, Court No. 1, Mumbai Bench, in C.A. No. 1054-MB/2020 in C.P. No. 1069-MB/2020.

Dr. Abhishek Manu Singhvi, submits that Ld. Tribunal committed Jurisdictional error in effecting the status quo ante by allowing the Respondent No. 1 to act as an Executive Director. The Respondent No. 1 is not the Executive

Director of the Appellant Company since 07.11.2019 and has vacated the office. To this effect, notification has been issued on 30.07.2020. Whereas, the Company Petition was filed on 29.08.2020 i.e. after lapse of about nine months. Interim mandatory injunction can be granted in rare of rarest cases, the final relief cannot be granted in the form of interim relief. Ld. Tribunal in the impugned order specifically mentioned that at the interim application stage, they are not deciding anything on merit to find out whether Company is a quasi-partnership or not. In this regard, it is submitted that the Appellant is a public limited company and such company cannot be quasi- partnership. Thus, the Respondent No. 1 has not made out any prima facie case and no balance of convenience in his favour.

It is also submitted that pursuant to the impugned order the Respondent No. 1 has not taken charge of the Vice Chairman & Executive Director of the Company. Therefore, the operation of the impugned order may be stayed.

Ld. Sr. Counsel Shri Arun Kathpalia, representing the Respondent Nos. 5 to 8 supports the prayer of the Appellant.

It is appraised that the advance notice of the appeal has been served on the Respondents, however, nobody is present on behalf of the Respondent No. 1.

We have considered the submissions, it is directed that the operation of the impugned order dated 09.02.2021 is stayed till next date of hearing.

Issue Notice to the Respondents by speed post. If the Appellant provides the email Id of the Respondents, Let notice be also issued through email. Requisites alongwith process fee, if not filed, be filed within two days. Also issue notice on I.A. No 348 of 2021.

Let the matter be fixed For Admission (After Notice) on **15th March, 2021.**

[Justice Jarat Kumar Jain]
Member (Judicial)

[Mr. Kanthi Narahari]
Member (Technical)

SC/Bm.