

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No.361 of 2017

[Arising out of order dated 12th September, 2017 passed by National Company Law Tribunal, Ahmedabad Bench, Ahmedabad in I.A. 4/2016, TP62-A/2016 to TP 62-E/2016 with TP No. 62/397-398/NCLT/AHM/2016 (New) CA No. 67/2015, 77/2015, 195/2015, 1/2016, 54/2016 CP No. 17/397-398/CLB/MB.2014 (Old)]

IN THE MATTER OF:

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| 1. Jaynarayan Pusaram Karwa
Residing at :
Jay Building, Karwa Nagar,
Jalna - 431203. | ...Appellant No.1
(Original Respondent No.2) |
| 2. Sushil Jaynarayan Karwa,
Residing at :
B-7, Kapil Malhar Bungalow,
Baner Road,
Saner, Pune - 411045 | ...Appellant No.2
(Original Respondent No.3) |
| 3. Vishnu Jaynarayan Karwa,
Residing at :
Jay Building, Karwa Nagar,
Jalna - 431203. | ...Appellant No.3
(Original Respondent No.4) |

- Versus -

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| 1. Mukund Subhash Karwa
Residing at :
R.P. Road, Opp. Ram Mandir,
Jalna - 431203. | ...Respondent No.1
(Original Appellant No.1) |
| 2. Anup Subhash Karwa.
Residing at :
R.P. Road, Opp. Ram Mandir,
Jalna - 431203. | ...Respondent No.2
(Original Appellant No.2) |
| 3. Ashish Subhash Karwa,
Residing at :
R.P. Road, Opp. Ram Mandir,
Jalna - 431203. | ...Respondent No.3
(Original Appellant No.3) |

4. **Shweta Mukund Karwa,**
Residing at :
R.P. Road, Opp. Ram Mandir,
Jalna - 431203. **Respondent No.4**
(Original Appellant No.4)
5. **Kaushalyadevi Subhash Karwa,**
Residing at :
R.P. Road, Opp. Ram Mandir,
Jalna - 431203. **Respondent No.5**
(Original Appellant No.5)
6. **Arati Ashish Karwa,**
Residing at :
R.P. Road, Opp. Ram Mandir,
Jalna - 431203. **Respondent No.6**
(Original Appellant No.6)
7. **Shridevi Anup Karwa,**
Residing at :
R.P. Road, Opp. Ram Mandir,
Jalna - 431203. **Respondent No.7**
(Original Appellant No.7)
8. **Subhash P. Karwa HUF**
Through its Karta
Ashish Subhash Karwa,
Residing at :
R.P. Road, Opp. Ram Mandir,
Jalna - 431203. **Respondent No.8**
(Original Appellant No.8)
9. **Ashish Subhash Karwa HUF**
Through its Karta
Ashish Subhash Karwa,
Residing at :
R.P. Road, Opp. Ram Mandir,
Jalna - 431203. **Respondent No.9**
(Original Appellant No.9)
10. **Krishnidhan Seeds Private Limited,**
Company incorporated under the
Provisions of the Companies Act, 1956
Having its registered office at
302, Royal House, 11/3,
Usha Ganj,
Indore - 452 001.
Madhya Pradesh. **Respondent No.10**
(Original Respondent No.1)
11. **Madhav Ambadasji Dhande,**
Residing at :
A-3, Kapil Malhar Bungalow,
Saner Road, Baner
Pune - 411045. **Respondent No.11**
(Original Respondent No.6)

12. **Omprakash Attal,**
Residing at :
Flat No. 903, Building No. 1,
Laburnum Park,
Magarpatta City Hadapsar,
Pune – 411013. **...Respondent No.12**
(Original Respondent No.7)
13. **Girish S. Sharma**
Residing at :
H. No. 1-7-23
Opposite Radhika Cloth Stores
Dr. R.P.Road,
Jalna -431203. **...Respondent No.13**
(Original Respondent No.8)
14. **Sanjay Khare,**
Residing at :
Flat No. 101, Building No. – 0,
Laburnum Park,
Magarpatta City Hadapsar,
Pune – 411013. **...Respondent No.14**
(Original Respondent No.9)
15. **Hasmukh Raithatha,**
Residing at :
Behind Hotel Bagadia International,
Manish Nagar,
Nava Mondha Road,
Jalna – 431203. **...Respondent No.15**
(Original Respondent No.10)
16. **Mukund Katwe,**
Residing at :
Plot No. E-39, N-4, CIDCO
Aurangabad -431003. **...Respondent No.16**
(Original Respondent No.11)
17. **Summit Partners India**
Private Investments,
Suite 25, 3
North Avenue Maker Maxity,
Bandra-Kurla Complex Bandra (East),
Mumbai – 400051. **...Respondent No.17**
(Original Respondent No.12)
18. **Krifin Pvt. Ltd.**
C/o Mr. Omprakash Attal,
Flat No. 903, Building No. –I,
Laburnum Park,
Magarpatta City Hadapsar,
Pune – 411013. **...REspondentNo.18**
(Original Respondent No.13)

- 19. Ernst & Young** **...Respondent No.19**
Ernst & Young India P. Ltd., **(Original Respondent No.14)**
C-401, Panchshil Tech Park,
IBM Complex,
Next to Don Bosco School,
Yerwada,
Pune – 411006.
- 20. Manish Jaynarayan Karwa,** **...Respondent No.20**
Residing at : **(Original Respondent No.5)**
9-B, Janki Nagar Annexe,
Indore – 452001.

Present: Shri Sudipto Sarkar, Sr. Advocate with Shri Aditya Aggarwal and Shri Kunal Vaishnav, Advocates for the Appellants

Shri Vikas Mehta and Shri B. Mithun Rao, Advocates for Respondent Nos.1 to 9

Shri Ritin Rai and Shri Aabhas Kshetarpal, Advocates for Respondent No.10

J U D G E M E N T

A.I.S. Cheema, J. :

This appeal has been filed by original Respondents 2 to 4 against the impugned order dated 12.09.2017 passed by learned National Company Law Appellate Tribunal, Ahmedabad (NCLT) Company Petition (details as mentioned before cause title) which has been filed by Respondents 1 to 9 who are original petitioners in the company petition. The NCLT finally heard the parties but passed interim orders which according to the appellants effectively granted final prayers A and B of the company petition. NCLT has appointed interim administrator, Independent Directors and statutory auditors for Respondent No.10 company (Original Respondent No.1), giving various directions.

2. The appellants claim, and it is argued for them that NCLT did not record any finding of oppression and mismanagement. NCLT considered the Memorandum of Understanding dated 13.02.2013 and also found that arbitral award dated 31.07.2014 passed between the rival groups, allotted the respondent company to the appellants and there was no challenge to that part of the arbitral award and as such NCLT held that there would be no need to give findings of alleged acts of oppression and mismanagement. The appellants claim that in view of this the company petition should have been dismissed and the reliefs as granted at interim stage could not have been granted. Appellants claim that the appointment of the interim administrator and Independent Directors is prejudicial to the reputation of the company and will cause business difficulties. It will affect trust and faith of creditors. The appellants express apprehensions that business would be affected. According to them in board meetings, trade secrets and confidential information may have to be shared with Independent Directors. The entire shareholding of the company is held by two groups of Karva family. The appellants (original Respondents 2 to 5) represent "JPK Group". Respondents 1 to 7 (original petitioners) represent SPK Group. The arbitration agreement was subsequent to the filing of the company petition which petition was filed by SPK Group who wanted to wriggle out of family arrangement/MOU. As per MOU dated 13.02.2013, the appellants were managing the respondent company and Respondents 1 to 9 were looking after companies allotted to them. According to the appellants, the Respondents – SPK Group were indulging in competing

business. The appellants state that they do not object to the appointment of independent Chartered Accountant firm to assess the fair market value of the shares of Respondent No.10 company as on date of filing of the company petition by Respondents 1 to 9.

3. It has been argued by the learned counsel for the appellants that the Company Petition – TP 62/2016 earlier filed before the Company Law Board (CLB) as CP 17/2014 was finally heard by the NCLT. Still when ultimately the judgement was passed, interim orders have been passed regarding the managing of affairs on the basis that arbitral award has not yet reached finality and not yet implemented. It has been argued that the award concerned has been challenged under Section 34 of the Arbitration Act. The learned counsel submitted that although parties went in arbitration, the disputes between the parties have been going on. The appellants have 60% shareholding while Respondents 1 to 9 have 40% shareholding. According to the learned counsel, there was no reason why the NCLT should have passed interim order and not final orders. The directions regarding appointing interim administrator without finding acts of oppression and mismanagement is unjustified. The learned counsel submitted that in the interim order passed by NCLT, one of the directions is to appoint independent Chartered Accountant to assess fair market value of the shares of the respondent company. It has been submitted that if this is done, disputes between the parties would settle down. It is stated that the company petition was filed before CLB on 18.02.2014 and disputes were referred to arbitration in July, 2014 and award was passed on 31.07.2014. Learned counsel for the

appellants submitted that the appeal should be allowed and the impugned order should be quashed and set aside except to the extent where NCLT has directed appointment of independent Chartered Accountant firm to assess fair market value of the shares of respondent company.

4. We have heard contesting respondents also. The learned counsel for Respondents 1 to 9 submitted that the impugned order passed is just and appropriate and the NCLT has struck balance between the parties. According to the counsel, if the orders passed by NCLT are seen, it has retained Board of Directors and only added the Interim Administrator without superseding the existing Board. The Interim Administrator has been empowered to propose names of two Independent Directors having experience in the field of seeds business which is the business of the company so as to administer the company till position regarding arbitration award becomes clear. It is argued that Independent Directors would rather be impartial. There are directions with regard to sale of Akola property of the company under supervision of interim administrator, to discharge the liabilities of the company and as such the present interim arrangement made by NCLT is necessary in the interest of both sides and the company. The counsel submitted that the record shows that there are several recovery proceedings against the company which company is managed by the appellants and even cheques issued have been dishonoured. Loans are outstanding and there are also SARFESI proceedings. It has been argued that CBI has registered FIR against the appellants and the Court allowed search on 29.09.2016 and such factors were in record before

NCLT. The counsel referred to para 79 of the impugned order to state that NCLT was aware of the allegations regarding financial irregularities. It is stated that the company has liability of hundreds of crores because of which some property was required to be sold, and in such situation, interim administrator should be there. A reference has been made to the reports filed by Hon'ble Shri Justice K.K. Lahoti, former Judge, High Court of Madhya Pradesh who was earlier appointed as observer as per CLB order and who has now been appointed as Interim Administrator. The counsel referred to the reports dated 28.03.2016 and the report dated 04.04.2016 filed with reply by these respondents to point out how there were grave issues regarding the management of the company and when CLB appointed the observer, the appellants came up with a procedure of circular resolutions to bypass the observer. The learned counsel referred to the report of the observer dated 28.03.2016 which in para 10 refers to raising of objections by Respondent No.1 with reference to amounts where under the head of "Other Expenses", amount of Rs.7,96,007,625/- had been shown as "Doubtful Advances" written off. Thus according to the learned counsel huge amounts were being siphoned and thus the impugned order does not require any interference.

5. Learned counsel for Respondent No.10 – company has submitted that NCLT did not consider reply of the company. It is argued that Company Law Board (CLB) had on 25.04.2014 permitted sale of Akola property. Earlier CLB had declined to appoint administrator and although there was no change of circumstance, present impugned order has been passed appointing Interim

Administrator. Learned counsel submitted that the observer has now stopped going ahead with the sale of the property at Akola due to the present impugned order which is stayed by this Tribunal during pendency of this appeal. It is stated that the said steps should not be stayed in the interest of the company.

6. We have heard the counsel for the parties and gone through the record as well as the impugned order. It would be appropriate to refer to certain facts and developments which have occurred in the present matter. The impugned order has referred to those facts in much details in 3 different parts. First is with reference to the events leading to family arrangement or MOU dated 13.02.2013; Second is with regard to events from 13.02.2013 till petition was filed on 18.02.2014 and the Third part is with reference to developments after filing of the petition.

7. It will be appropriate to refer to the parties as they have been arrayed in the NCLT. Thus we will refer to the appellants as – “Respondents 2 to 5” or “JPK Group” and the Respondents 1 to 9 here as “original Petitioners 1 to 9” or “SPK Group”. Original Petitioners 8 and 9 are actually HUF.

8. The respondent company was incorporated on 05.02.1996 by original P3, P5 and R2 to 5 as “Krishidhan Seeds Limited” (KSL), 5 subsidiary companies were floated by KSL and one related company – Mariegold Infrastructure Private Limited was also incorporated. Around March, 2010

when Respondent No.12 - Summit Partners decided to invest Rs.132.24 crores to acquire 24.79% equity, a subscription agreement was entered into on 18.03.2010. EOGM dated 22.11.2010 was called to facilitate the investment when it was resolved to convert the company into private limited company and thus it became “Krishidhan Seeds Private Limited” (KSPL) – (R1).

9. It appears that disputes arose between the parties leading to MOU dated 13.02.2013 between original Petitioners 1 to 3, 5 and Respondent No.2 and Respondent No.5 representing rival groups. The MOU intended to divide all the properties and liabilities including HUFs, flagship company Krishidhan Seeds Private Limited and business interest in the various firms etc. Although the MOU was executed, it came to be challenged before the District Court, Pune. The original petitioner claimed that the MOU is sub-judice. Original Respondents 2 to 5 claimed that the MOU became necessary due to acts of oppression and mismanagement by original petitioners. The allegations of siphoning of money and forgery and other allegations were made. Original Respondent No.3 claimed that the MOU was entered to resolve several disputes between the two groups. Respondents claim that after infusion of funds by Summit Partners, original Petitioner No.1 became over ambitious and started taking arbitrary and hasty decisions. The original respondents claim that MOU dated 13.02.2013 was required to be adhered to.

10. Case put up by original petitioners before NCLT is that original Respondent 3 denied to share information regarding documents pertaining to

repayment of Respondent No.12 on 06.04.2013 and original petitioners were required to send legal notice dated 07.10.2013 to revoke power of attorney. They searched Sub-Registrar's office at Akola in September 2013 and came to know about dealings with regards to property at Akola. After issuing legal notice to respondents, petitioners filed the company petition on 18.02.2014.

11. After filing of the company petition, it appears that on 03.03.2014, Company Law Board passed the orders granting ad interim prayers and directing original respondents to maintain status quo in respect of immovable assets of the company. It also observed that mere entering into family settlement would not mean that the rights of petitioners available under Section 397/398 of the Companies Act, 1956 could not be availed of. Against this order, original respondents filed the Company Appeal 09/2014 before High Court of Bombay which was disposed by reverting back the parties to Company Law Board. Before the Company Law Board, original petitioners sought appointment of administrator/Special Officer or independent committee but the CLB in order dated 25.04.2014 to balance equities and urgent liabilities of the company permitted sale of properties of the company at Akola and to supervise the same appointed Hon'ble Justice K.K. Lahoti, former Judge, High Court of Madhya Pradesh as observer-cum-facilitator. Certain further directions were also given which included that the observer-cum-facilitator would be entitled to attend and supervise Board meetings and AGM/EOGM. To this extent the earlier order dated 03.03.2014 of CLB was modified.

12. Even this order of the CLB was challenged in Miscellaneous Company Appeal 03/2014 before High Court of Madhya Pradesh but parties were again sent back to CLB. Then same applications were filed by the parties before CLB. It appears that in Board meeting dated 07.07.2014, SPK and JPK Groups agreed to refer the disputes to arbitration. The disputes were accordingly referred and award came to be passed on 31.07.2014. The original respondents were not satisfied with the award and filed petition under Section 34 of the Arbitration and Conciliation Act challenging the award. CLB passed common orders on 05.09.2014 in CA 225/2014, 226/2014 and 231/2014. The learned NCLT in the impugned order (para 48) has referred to the directions which were passed by CLB and its observation relating to award passed and which has been challenged by the respondents observed that when the respondents have themselves challenged the award they were estopped from relying on part of the same award that stipulates that the respondent company has been given to their share.

13. Against the order of the CLB dated 05.09.2014, it appears that again appeal was taken to the High Court of Madhya Pradesh in MCA 49/2014 and the same came to be disposed on 14.01.2015 leaving it to the CLB to consider effect of arbitral award at the time of final disposal of the matter.

14. The parties filed various applications before the NCLT. CA 67/2015 was filed by contesting respondents to appoint independent valuer; CA 77/2015 was filed by the respondents to restrain original petitioners from competing with business of the company; CA 195/2015 was filed by original petitioners

to maintain status quo regarding shareholding and to direct respondents to discharge urgent liabilities of the company; CA 01/2016 was filed by petitioners for appointment of Interim Administrator and Independent Directors and CA 54/2016 was filed by petitioners to extend role of the observer by appointing him as Independent Director. IA 04/2016 was filed by petitioners to get forensic audit done. In the applications filed, further reliefs were also claimed. These IAs have also been disposed by the NCLT in the impugned orders.

15. It appears from the impugned order that the learned NCLT kept in view the developments in this litigation. The impugned order records these aspects and submissions in details which we need not reproduce.

16. Learned NCLT (in para 58) in the impugned order considered as to how the parties happened to refer their disputes to arbitration and the award which was passed which inter alia deals with award of business interest; companies and branch bifurcation with future scope as well as procedure to free group liabilities and implementation of the award. NCLT considered that the award was under challenge before the District Judge at Pune. NCLT has then referred to the orders passed by the Hon'ble High Court of Madhya Pradesh in Company Appeal 49/2014 and the observations of the High Court to hold that in view of the orders of the High Court, it has the powers to grant relief in case of oppression and mismanagement of the affairs of the company because distribution of assets in terms of the award has yet not taken place. In the impugned order NCLT then considered that it was necessary for it at

the final hearing stage to decide the effect of the arbitral award on the petition, in view of the judgement which was passed by the Madhya Pradesh High Court. Observations in para 63 of the impugned order are as under:

“63. Peculiar facts in this case is that after filing of this petition and after appointment of Hon’ble Observer cum Facilitator Mr. Justice K.K. Lahoti, right in the presence of the observer cum facilitator in the Board Meeting held on 07.07.2014 it was resolved by representatives of both the families i.e. SPK group and JPK group to refer all the disputes to the Arbitrators and accordingly all the disputes were referred to the Arbitrators and Arbitrators passed the award. After passing of the award, respondents no. 2 to 5 filed Company Appeal No. 231 of 2013 questioning the maintainability of the petition on the ground that Arbitral Award has been passed. The same respondents filed petition before District Judge to set aside the award under Section 34 of the Arbitration and Conciliation Act, 1996.”

Discussing rulings in this context, NCLT observed in para 68 as under:

“68. In the case on hand during the pendency of the Company Petition both the families entered into Arbitration Agreement and accordingly disputes were referred to Arbitrator. Arbitral Award was passed but the award has not reached finality. Respondents No.2 to 5 already filed petition to stay for Arbitration. The issues raised in this petition relate to alleged acts of oppression and

mismanagement. A perusal of the submissions in the petition is not a dressed up one to overcome the arbitration. In fact, there was no Arbitration Agreement prior to filing of this petition. Therefore, issues relating to the acts of oppression and mismanagement are not at all referable to Arbitrator and it is the exclusive domain of this Tribunal to decide one way or the other basing on the material available on record, since the Arbitral Award is yet to reach finality and yet to be implemented.”

The observations in para 70 were as follows:

“70. Before exercising such jurisdiction, it has to be borne in mind that KSPL and its management has been allotted to JPK group in the MOU as well as in the Arbitral Award. It is a fact that, Arbitral Award has not reached finality. Arbitration and Conciliation Act, 1996 do not contemplate the award to become the Rule of Law. Section 34 of Arbitration and Conciliation Act, 1996 lays down certain grounds on which Arbitral Award can be set aside. Petitioner has stated that, Arbitral Award is under challenge before learned District Judge. Till the Arbitral Award is set aside it cannot be treated as a waste paper which is emerged out of the agreement between the parties, during the pendency of this petition.”

17. As to what weight and consideration should be given to the arbitral award, the NCLT discussed judgements as mentioned in the impugned order and observed in para 76 as under:

“76. In case if this Tribunal came to a conclusion that there are acts of oppression and mismanagement in the conduct of affairs of the first respondent company (KSPL), it is necessary for this Tribunal to pass certain orders regarding the management and conduct of the affairs of the first respondent company (KSPL) which has already been allotted to SPK group in order to remove the oppression and to compensate mismanagement. In case the award become final and implemented, then the orders passed by this Tribunal in respect of management of the first respondent company would be directly and sometimes impliedly take away the rights conferred on the SPK group by virtue of the award. It may be said that respondents 2 to 5 themselves asked for setting aside the award. Both the parties are bound by the award till it is set aside and it is not material who asked for setting aside the Arbitral Award. It is strange that respondents No.2 to 5 who challenged the award is pleading before the Court that in view of the Arbitral award this Company Petition is not maintainable. Such type of diametrically opposite inconsistent pleas taken in different forums show that JPK group is somehow trying to manage the KSPL as they wish as long as possible.”

18. The learned NCLT then took note of the reports which had been submitted by the observer-cum-facilitator and in para – 77 of the Impugned Order considered how SPK Group had gone to the extent of passing circular resolutions. The reference to “SPK Group” is apparently a typing mistake.

Reference actually is to “JPK Group” which relates to Respondents 2 to 5 who are managing the affairs of the company. NCLT taking note of factual situations which were appearing from record and the fact that there is an arbitral award existing which cannot be treated as some waste paper, it found that although it can rule regarding oppression and mismanagement but pending finalization of the arbitral award it observed that it is not necessary to give a conclusive finding on the alleged acts of oppression and mismanagement.

19. From the impugned order, it is apparent that the learned NCLT took into consideration all the necessary facts and the factual situations as well as the orders which had been passed in the matter by CLB as well as High Courts and taking overall conspectus it came to reasoned decision that pending finalization of the arbitral award, it was not necessary to record “conclusive finding” on the alleged acts of oppression and mismanagement. In such background, the NCLT observed :

“79. However, considering long standing disputes between the petitioners and respondents No. 2 to 5, considering the non-implementation of MOU, considering the challenge made to the Arbitral award passed by the Arbitrator, considering the manner in which the proceedings in the Board Meetings have been taken place, and taking into consideration the interest of KSPL and subsidiary companies, there need to be certain directions in the conduct of the affairs of the first respondent company. In this

regard it is necessary to state certain facts. Respondent got circular resolutions passed which are not contemplated in the order of Company Law Board dated 25.04.2014. Certain financial irregularities were alleged by the petitioners, even after the appointment of Observer cum Facilitator. There is also averment to the effect that salaries are also stopped. Moreover, respondents have filed an application to boycott the shareholding of the petitioners. Respondents have also alleged that the petitioners are competing the business of KSPL group through SFPL Crop Life Sciences Pvt. Ltd. and KVS IPL. Respondents alleged that petitioners have created an environment to damage the reputation of Respondent No.1 by way of anti-campaign in the business circle and by giving false advertisements, by writing letters to Bankers, by giving public notice not to deal with property of MIPL and contacted dealers etc. of KSPL.”

NCLT has concluded (in para 81) that in the interest of shareholders of KSPL and in the interest of SPK Group as well as JPK Group, as arbitral award has not yet reached finality, it was passing orders, as it has done.

20. From the final orders which have been passed by way of interim arrangement, what can be seen is that the NCLT appointed the observer as interim administrator without superseding the existing Board of Directors of KSPL and the observer has been empowered to propose names of two Independent Directors. It has been directed that after appointment of two

Independent Directors a meeting of the Board would be conducted. Directions have been given regarding appointment of Independent Chartered Accountant and Special Auditors. The interim orders direct that the agenda of all kinds of meetings of KSPL shall be approved by interim administrator before notice of meeting is given; the meetings shall be in accordance with interim orders in force and directions given in the impugned order; that shareholding pattern should not be changed; that sale of Akola property shall be as per Company Law Board orders and under supervision of interim administrator; Respondent No.3 shall not exercise authority which he has under Section 113 of Companies Act in the meetings. There are further directions with regard to various incidental and ancillary aspects. The TP 62/2016 has been kept pending till arbitral award reaches finality for the purpose of passing orders on aspects of alleged acts of oppression and mismanagement taking into consideration the special audit report and share evaluation report of KSPL. With such and further directions as can be seen in the impugned order, the TP has been kept pending.

21. From the judgement /order which has been passed by the NCLT, we find that in the given set of facts of the present matter, the recourse adopted by NCLT cannot be found fault with. After such excessive hearing and detailed order which the learned NCLT painstakingly recorded, it could have recorded whether or not oppression and management was made out but it did not do so. NCLT appears to have tried to avoid complications which may arise by recording findings on this count when arbitral award is yet to become final and as matter is pending in the District Court. Looking to the materials which

NCLT had in front of it, which it has also referred to in the impugned order and materials which are part of records, the NCLT has exercised discretion vested in it to safeguard the interest of the company and when the exercise of the jurisdiction appears to be judicious and not casual or unfounded, we do not think it appropriate on our part to interfere with the impugned order. We find the observations and reasons recorded by the NCLT to proceed to pass orders which are in the nature of interim orders till arbitral award reaches finality to be justified in the facts and circumstances as appearing from the record. There is no substance in this appeal.

The appeal is dismissed with costs quantified at Rs.1 lac to be paid jointly or severally by the three appellants to the respondents 1 to 7.

[Justice A.I.S. Cheema]
Member (Judicial)

[Balvinder Singh]
Member (Technical)

New Delhi

21st December, 2017

/rs/nn