

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 200 of 2017

IN THE MATTER OF:

1. **Sanjay Murarka,
1C, Mandevilla Gardens,
Kolkata – 700 019.**
2. **Sumangala Murarka,
1C, Mandevilla Gardens,
Kolkata – 700 019.**
3. **Mallika Murarka,
1C, Mandevilla Gardens,
Kolkata – 700 019.**
4. **Avanti Murarka,
1C, Mandevilla Gardens,
Kolkata – 700 019.**

... Appellants

- Versus -

1. **Fab Leathers Limited,
P-42/1, Hide Road Extension,
Kolkata – 700 088.**
2. **Prabha Devi Murarka,
1C, Mandevilla Gardens,
Kolkata – 700 019.**
3. **Praveer Murarka,
1C, Mandevilla Gardens,
Kolkata – 700 019.**
4. **Sharmita Murarka,
1C, Mandevilla Gardens,
Kolkata – 700 019.**
5. **Dipiksha Murarka,
1C, Mandevilla Gardens,
Kolkata – 700 019.**
6. **Divya Murarka,
1C, Mandevilla Gardens,
Kolkata – 700 019.**

...2/-

**7. Chroma Business Ltd.,
1C, Mandevilla Gardens,
Kolkata – 700 019.**

.... Respondents

**Present: Shri Joy Saha, Senior Advocate with Shri Sarad Singhania
and Ms. Rashmi Singhania, Advocates for the Appellants.**

**Shri Karan Nagrath and Shri G.D. Chopra, Advocates for
Respondents Nos. 1 to 6.**

ORDER

22.11.2017 Heard learned Senior Counsel, Shri Joy Saha, on behalf of the appellants, who were petitioners in the Company Petition No. 26/2015 before the National Company Law Tribunal, Kolkata Bench, Kolkata ('NCLT' for brief). Heard learned counsel, Shri Karan Nagrath, on behalf of Respondents Nos. 1 to 6, who were the 'Respondents' before the NCLT in the company petition. He files Vakalatnama on behalf of Respondents Nos. 1 to 6, which is taken on record.

2. In this matter, the learned NCLT dismissed the Company Petition as not pressed when both parties took time but failed to record compromise and when asked to argue the matter, Advocate for the Petitioners expressed inability to argue. Later, application to restore also was rejected.

3. Learned Senior Counsel for the appellants submits that Respondent No. 7 was not a necessary party before the NCLT and is not shareholder

or Director or Member of Respondent No. 1 Company. The litigation refers to the Company of Respondent No. 1. Learned Senior Counsel submits that the appellants (original Petitioners) wish to delete the name of Respondent No. 7 from the array of parties in the appeal and Company Petition No. 26/2015 being dismissed as regards Respondent No. 7 does not need interference.

4. On request of the learned Senior Counsel for the appellants, Respondent No. 7 stands deleted. The appellants to correct the appeal memo accordingly.

5. Learned Senior Counsel submits that as far as other parties in the matter are concerned, they have compromised their dispute and drawn the Memorandum of Settlement. He tenders the original Memorandum of Settlement which is dated 12th November, 2017. Learned Senior Counsel submits that the parties have executed this document at Kolkata and the affidavits have been filed in support of the Memorandum of Settlement, which affidavits are of Appellant No. 1, Shri Sanjay Murarka and Respondent No. 3- Shri Praveer Murarka. Learned counsel for Respondents Nos. 1 to 6 agrees that Respondents Nos. 1 to 6 have settled as per this Memorandum of Settlement. Both the learned counsel submit that the Memorandum of Settlement was drawn at Kolkata and the local

counsel there explained the contents of the Memorandum of Settlement to the appellants as well as Respondents Nos. 2 to 6 who are signatories, and parties agreed to the contents. Respondent No. 1 is the company.

6. Learned counsel for both sides agree that the contents are correctly recorded and have been duly explained to the respective parties and submit that the Memorandum of Settlement may be accepted for the purpose of disposing of the company petition which was filed under Sections 397 and 398 of the Companies Act, 1956 before the NCLT. Seen the Memorandum of Settlement and the Affidavits in support.

7. The Memorandum of Settlement tendered is marked 'X' for identification and the same is taken on record. Registry to put the same with Affidavits in an envelope and keep safely on record. Parties will be entitled to certified copies.

8. In view of the settlement between the contesting parties, the impugned order in I.A. No. 169/KB/2017 in C.P. No. 26/2015 dated 5th May, 2017 is quashed and set aside. The order dated 24th March, 2017 dismissing the Company Petition No. 26/2015 is also quashed and set aside. The Company Petition is restored to file and then the Company

Petition No. 26/2015 is disposed of as withdrawn in view of the Memorandum of Settlement dated 12th November, 2017 filed by the parties. No costs.

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

[Balvinder Singh]
Member (Technical)