

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 393 of 2018

IN THE MATTER OF:

Ganesh Prasad Yadav & Anr.

...Appellants

Vs

Contai Bus Syndicate Pvt. Ltd. & Ors.

....Respondents

Present:

For Appellants: Mr. Rajesh Kumar, Advocate.

For Respondents:

ORDER

29.11.2018: The Appellant has challenged the order dated 6th September, 2018, which reads as follows:-

“ORDER

The Ld. Counsel appears for the Petitioner. No one appeared for Respondent Nos 1 and 2.

The Ld. Counsel for the Respondent No. 3 appeared. The Ld. Counsel for Respondent Nos. 4 & 5 also appeared.

The Ld. Counsel for Respondent Nos. 8 & 16 also appeared.

The Ld. Counsel for Respondent Nos. 4 and 5 seeks time to file reply to the applications. He is allowed to file reply in all the proceedings and they have to be filed within two weeks.

The IA No. 312/KB/2017 is an application by the Petitioner for appointment of Special Officer. On the last date of hearing, order was erroneously passed that the Special Officer appointed, stands corrected that the Special Officer would be appointed upon hearing the matter on merit

The Contempt application No. 474/KB/2017 is filed by the Petitioner. The respondents have not filed reply. The Ld. Counsel for the Respondent Nos. 8 & 16 says that he has already filed the reply on record.

The IA No. 390/KB/2018 is filed by the shareholders to add them as parties.

The Ld. Counsel for the Petitioner seeks time to file reply to the application. It is to be filed within two weeks by serving copy to the other sides and the opposite parties to file the rejoinder, if any, within seven days thereafter.

The IA No. 527/KB/2018 is an application filed by some of the Respondents challenging the maintainability of the main CP.

The Ld. Counsel for Respondent Nos. 8 & 16 undertakes to give signed copy of the Application to the Petitioner. It will be given within a week and the Petitioner to file reply within two weeks thereafter by serving copy to the other side.

The contempt application Cont. A. No. 537/KB/2018 is again filed by the Respondent Nos. 8& 16. The Ld. Counsel for the Respondent Nos. 8 & 16 undertakes to hand over the signed copy of that contempt application to the Petitioner. It is to be given within one week and the Petitioner to file reply to the application within two weeks.

It is pointed out that Wired Industries Pvt. Ltd. has filed one more application for addition of party. It has not yet been numbered and not on record.

IA No. 389/KB/2018 is filed by Respondent No. 14 against expunging the name of the Respondent No. 14. The copy is handed over to the Petitioner. The Petitioner to file the affidavit-in-reply within two weeks.

Now, IA No. 390/KB/2018, IA No. 527/KB/2018 and IA No. 312/KB/2017 is fixed for hearing on 26-11-2018.”

2. Learned counsel for the Appellant submits that by Interlocutory Application No. 312/KB/2017 the Tribunal has modified its earlier order dated 3rd August, 2018 which is not permissible.

3. However, we find that the matter is pending for hearing and it has been ordered that the matter of appointment of Special Officer will be decided upon hearing the parties on merit.

4. In the circumstance, we are not inclined to interfere with the impugned order dated 6th September, 2018. The appeal is accordingly dismissed. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

am/uk