

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 198 of 2019

IN THE MATTER OF:

Mr. Santosh Chetal

.....Appellant

Vs.

Alag Intco Hotels Pvt. Ltd. & Ors.

.....Respondents

Present :

For Appellant: Mr. Nikhil Jain, Advocate

O R D E R

30.07.2019 - This appeal has been preferred by Appellant (Petitioner) against Interim Order dated 11th June, 2019 passed by the 'National Company Law Tribunal' Principal Bench, New Delhi (herein referred to as 'Tribunal') relevant portion of which reads as follows: -

“7. As a sequel to the above discussion we hold that EOGM may be convened as per the requisition and it may proceed according to the agenda. Any decision taken in the EOGM shall not be given effect as the main matter is posted for hearing on 03.09.2019. In the meanwhile, the decision taken in the EOGM be also placed on record.” *...contd.*

2. The Appellant have preferred the petition u/s 241 and 242 of the Companies Act, 2013 against 'Alag Intco Hotels Pvt. Ltd.' (Company and other Respondents).

3. When the matter was pending, the Respondent filed a petition for Interim Relief with a prayer to issue direction to maintain status quo in relation to shareholding and directorship of Respondent No. 1. Another prayer was made that during pendency of the petition convening of Extra Ordinary General Meeting (EOGM) be stayed.

4. On hearing the parties, the Tribunal passed the impugned order as quoted above.

5. Learned counsel appearing on behalf of the Appellant submitted that the Impugned Order is not justified. Keeping in view the facts and circumstances of the case, the Tribunal instead of passing an Interim Order should have considered the main petition.

6. There has been a deadlock in the Respondent No. 1 Company affecting the interest of the Respondent No. 1 Company and its shareholders, owing to which Extra-Ordinary General Meeting was proposed to be conducted on a valid requisition made by the shareholders of the Respondent No. 1 Company as per the provisions of Companies Act, 2013.

...contd.

7. From the impugned order, we find that though the Contesting Respondent filed petition for directions to maintain status quo, but no such relief can be granted by the Tribunal. So far as Extra Ordinary General Meeting (EOGM) for staying the General Meeting is concerned, the Tribunal taking into consideration the decision of Hon'ble Supreme Court has not stayed the EOGM. However, it is directed that the decision taken shall not be given effect as main matter is posted for hearing. Apparently, the Tribunal may find out whether the decision taken in the EOGM is in the interest of the Company or is oppressive to any of the Member or class of members or Company or not.

8. We are not interfering, however, impugned order or the order passed by this Appellate Tribunal shall not come in the way while deciding the petition on merit.

9. For the reason aforesaid, we are not inclined to intervene with the Impugned Order. The appeal is dismissed. No costs.

[Justice S. J. Mukhopadhaya]
Chairperson

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

[Kanthi Narahari]
Member (Technical)

ss/gc