

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**  
**Company Appeal (AT) No. 266 of 2019**

**IN THE MATTER OF:**

**Mooldhan Advisory System (P) Ltd. & Ors. ....Appellants**

**Vs**

**Yashdeep Trexim Pvt. Ltd. & Ors. .... Respondents**

**Present:**

**For Appellants:- Mr. Sachin Datta, Sr. Advocate with Mr. Satish Kr. Mishra, Advocates.**

**For Respondents :- Mr. Avneesh Garg & Mr. Atanu Mukherjee, Advocates for R-1.**

**Mr. Sadapurna Mukherjee, Advocate for R-2**

**With**

**Company Appeal (AT) No. 294 of 2019**

**IN THE MATTER OF:**

**Juggilal Kamlapath Jute Company Ltd. ....Appellant**

**Vs**

**Yashdeep Trexim Pvt. Ltd. & Ors. .... Respondents**

**Present:**

**For Appellant:- Mr. Buddy Ranganathan, Mr. CS Chauhan, Advocates.**

**For Respondents :- Mr. Avneesh Garg & Mr. Atanu Mukherjee, Advocates.**

**Mr. Sadapurna Mukherjee, Advocate for R-2**

**ORDER**

**16.03.2020** Heard, Learned counsel for the parties.

2. NCLT, Kolkata Bench, Kolkata by the impugned order dated 24.07.2019 dispose of the Applications I.A No. 222/2017 filed by Yashdeep Trexim Pvt. Ltd. (Petitioner) Respondent herein and I.A No.

352/2017 filed by Mooldhan Advisory System Pvt. Ltd. and Ors. (Appellant in Company Appeal (AT) NO. 266/2019).

3. Being aggrieved Mooldhan Advisory System Pvt. Ltd. (hereinafter referred as A-1) filed Company Appeal (AT) No. 266/2019. Whereas Appellant Juggilal Kamalapat Jute Mills company Ltd. (hereinafter referred as A-2) filed Company Appeal No. 294/2019.

4. Yashdeep Trexim Pvt. Ltd. (herein after referred as R-1) filed company Petition under Section 397 and 398 of the Companies Act 1956, being CP No. 942/2012 before the Company Law Board, subsequently, the Petition was transferred to National Company Law Tribunal, Kolkata Bench. During the pendency of this Petition, Yashdeep Trexim Pvt. Ltd. (Petitioner before NCLT) filed an Application I.A No. 222/2017 for various reliefs including for adding some parties on the ground that they are subsequent purchaser of the some of the properties of the Company.

5. The Appellant Mooldhan Advisory System Pvt. Ltd. filed an Application I.A No. 352/2017 for seeking relief that the Tribunal has passed the interim injunction order to maintain status quo about fixed assets and shareholding pattern of the Company, due to this order the Mooldhan Advisory System Pvt. Ltd. is unable to comply the order passed by SEBI. Therefore, it was prayed that the interim injunction order be modified.

6. After hearing Learned counsel for the parties NCLT has disposed of the both the Applications by the impugned order, relevant portion is as under:

*“I.A No. 222/2017 is filed by the Petitioner for adding some parties on the ground that they are subsequent to the purchase of some of the properties of the Company. Pending this petition, it is made clear that broad principles of lis pendens do apply as appearing in section 55 or 52 of Transfer of Property Act are applicable. However, this point is kept open. Hence, they need not be made a party in this proceeding at this stage. I.A No. 222/2017 stands disposed off. In view of above order, IA No. 352/2017 also stands disposed off. In view of this, other matter stands adjourned. Matter to appear for further consideration on 26.09.2019.”*

7. Being Aggrieved with this order these Appeals are filed.

8. Learned counsel for A-1 submits that in both the applications the reliefs are altogether different however, Learned NCLT while disposing of the I.A No. 222/2017 without assigning any reason disposed off the Appellant’s Application I.A No. 352 of 2017. Therefore, it will be appropriate that the matter be remitted to NCLT for deciding the Application I.A no. 352 of 2017 afresh.

9. Learned Counsel for the Respondents agreed that in both the Applications the reliefs are quite different and in the impugned order the

NCLT has not assigned any reason while disposing of the I.A no. 352 of 2017.

10. Learned counsel for A-2 submits that earlier I.A No. 223/2017 was filed by the R-1 sought same relief which is seeking in I.A no. 222/2017, the Application I.A No. 223/2017 has already been dismissed and the order between the parties become final. Therefore, the same relief cannot be agitated by way of I.A no. 222/2017. Hence, the impugned order by set aside so far as the I.A No. 222/2017 is concerned.

11. On the other hand, learned counsel for the R-1 submits that by the impugned order the NCLT has not granted any of the relief and dispose of the Application with this direction that the principal of *lis pendence* do apply to subsequent purchaser. Thus, the Appellant cannot come within the definition of aggrieved person. Hence, Appeal is not maintainable.

12. Considered the submissions of the parties.

13. We have carefully examined the matter it is apparent that the relief in both the Applications are quite different. The relief seeking in Application I.A No. 352 of 2017 is not covered with the relief of I.A No. 222 of 2017 and no reason assigned while disposing off the I.A No. 352/2017. Hence, we set aside the impugned order to the extent of I.A No. 352/2017. The matter is remitted to National Company Law Appellant Tribunal, Kolkata with request that after giving reasonable opportunity of hearing to the parties decide application I.A No. 352/2017 afresh by passing reasoned order expeditiously.

14. We have gone through the order which is already reproduced above it is apparent that NCLT has rejected the prayer of R-1 for impleading subsequent purchaser as party to the proceedings. However, directed that the subsequent purchaser's right will be governed by Principle of *lis pendence* and the issue is kept open. It means such order is not final.

15. We found no ground to interfere in the impugned order so far as the Application I.A No. 222/2017 is concerned. Thus, the impugned order is maintained so far as the I.A No. 222/2017 is concerned. However, in regard to I.A No. 352/2017 is set aside.

14. The Appeal No. 266/2019 is allowed. However, the Appeal No. 294/2019 is dismissed. However, no order as to costs.

(Justice Jarat Kumar Jain)  
Member (Judicial)

(Mr. Balvinder Singh)  
Member (Technical)

(Dr. Ashok Kumar Mishra)  
Member (Technical)

**NEW DELHI**

SC