

COMPANY LAW BOARD  
NEW DELHI BENCH  
NEW DELHI

CP NO. 03(ND)2016

CA NO.

PRESENT: CHIEF JUSTICE M. M. KUMAR  
CHAIRMAN

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NEW DELHI BENCH OF THE  
COMPANY LAW BOARD ON 04.02.2016

NAME OF THE COMPANY: **Ms. Punita Khatter**

**Vs.**

**M/s. Explore Travels and Tour Pvt. Ltd. & Ors.**

SECTION OF THE COMPANIES ACT: 397, 398 the Companies Act 1956.

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
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1.	VIVEK MALIK	ADVOCATE	RESPONDENT NO. 1	
1.	NITIN GUPTA	Advocate	Respondents No. 2 to 4	
2.	Aditya SEWARI	ADVOCATE	— DO —	
3.	RACEEN KHANNA	— DO —	— DO —	
1.	Shweta Bhatti Adv.		Petitioner → Mishant Neha Singh Milan Kumar	 Mishant
2.	Shantanu Adv.			
3.	Mishant Gaurav Gupta Adv.			
4.	Mehima Singh Adv.			
5.	Milam Tamar Adv.			

P-T-O.

**ORDER**

CA No 35(C-1)/2016 and CA No.36(C-1)/2016:

Notice of the applications.

Ld. counsel for the Respondent No.1 and 2 to 4 accepts notice and seeks time to file reply which would be without prejudice to their rights based on application filed under s.8 of the Arbitration & Conciliation Act 1996. Let the reply be filed within two weeks with a copy in advance to the counsel opposite. Ld. counsel for the applicant-Petitioner undertakes to supply copies of the application to the non-applicant-Respondent during the course of the day.

Ld. counsel for the Petitioner requests for some time to file reply to the application filed u/s. 8. I find that possibility of amicable settlement is remote and the matter is to be decided on merit.

Ld. counsel for the Petitioner has cited Article 17 of the Articles of Association (Annexure-3) and has argued that it is the Managing Director- the petitioner - who alone is authorized to appoint an Attorney to represent Respondent No.1 company.


On the other end, ld. counsel for Respondent company has placed on record the Power of Attorney signed by two Directors Mr. Arjun Mehta and Ms. Shalini Wadhwa alongwith resolution.

I have perused Articles 17 of the Articles of Association. It does not exclusively give any right to Managing Director – the petitioner – to appoint an attorney on behalf of Respondent No.1 company. It in fact reserves the right to the Board of Directors to

do so. Accordingly two out of three members of the Board have passed the resolution appointing Mr. Vivek Malik as an advocate to represent Respondent No.1 company. Therefore, a frivolous argument has been raised to deprive respondent No.1 company to go un-represented. How the petitioner could appoint a counsel for respondent No.1 company is not understandable. He cannot be a petitioner and at the same time represent respondent No.1 company. It would be patent travesty of justice. Therefore the argument fails and the same is rejected.

Faced with the aforesaid situation, Ld. counsel for the Petitioner undertakes to supply a copy of the petition to Mr. Vivek Malik, Ld. counsel for the Respondent No.1 company during the course of the day.

List on 03.03.2016 at 2.30 PM.

  
[ CHIEF JUSTICE M.M. KUMAR ]  
CHAIRMAN

Date: 04.02.2016  
[ravi]