

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
NEW DELHI

CP NO. 13(MB)/2016

CA NO. 1/Mah/2016

PRESENT: CHIEF JUSTICE M. M. KUMAR
PRESIDENT

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NEW DELHI BENCH OF THE
NATIONAL COMPANY LAW TRIBUNAL ON 10.06.2016

NAME OF THE COMPANY: **Man Industries (India) Ltd.**
Vs.
M/s. Man Infraprojects Ltd. & Ors.

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

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
1.	ASHISH MAKHIJA	ADVOCATE	for Respondent No. 1 & 2	<i>[Signature]</i>
2.	ISHA JHA	ADVOCATE		
3.	ANIT DAMLE	AUTHORISED REPRESENTATIVE (ADVOCATE)	of R1 & R2.	
1.	YASH MEHTA	Advocate] ^{also} Petitioner	
2.	Sardhanshu Batra	sr. Advocate		

ORDER

Petition mentioned.

I have heard learned counsel for the parties at some length.


In the main petition on 23.2.2016 learned counsel for Respondent No.1- company after obtaining instructions from Shri Rajesh who is the group CEO had stated that no further loan would be availed by Respondent No.1 company and one transaction which is in pipeline would be processed without any mortgage of the property of respondent No.1 company. It was further stated that no loan was to be availed in any case by disbursement of proposed fifty crores till the next date of

hearing. The grievance made in this petition is that public notice (annexure -A) has been published on 27.5.2016 by one Mr. Vimal Kumar Jain, Indore indicating that their client has entered into an agreement to purchase Plot No.15, situated at PU-3, Scheme No.54 of Indore Development Authority having total area of 504 square meter alongwith total built up area including ground floor plus 4 stories and roof totaling to 2103.19 square meter from Man Infraprojects Ltd., who hold the lease rights and ownership on this land through its director Jagdish Mansukhani, resident of 17-18, Joy builders colony, Indore (MP). The notice further clarifies that this property was earlier held in the name of Man Industries (India) Ltd which has since been transferred in the name of Man Infraprojects Ltd. There is a demerger approval of Bombay High Court in this regard. By the notice objections have been invited from the general public within ten days. The main plank of argument of the applicant- petitioner is that the statement made in the order dated 23.2.2016 in letter and spirit has been violated and if the respondents are proceeding with regard to any such transaction or alienating property mentioned in the public notice then they should be restrained from doing do. Additionally the prayer has been made to restrain them from issuing any further notice.

Mr. Makhija learned counsel for the respondent has argued that Bombay High court has already appointed an Arbitrator and the dispute raised in the company petition is fully covered by the reference made to the Arbitrator. In this regard learned counsel has pointed out that application CA No. 41/2016 under section 8 of the Arbitration Act has already been filed. Additionally CA No. 42/2016 with regard to maintainability on the ground that petitioners do not fulfill the requirements of section 399 has also been filed which is pending. Learned counsel for the respondent has requested that first of all those applications should be decided even before taking up any application under consideration. It has further been pointed out that petitioners have also issued public notice misrepresenting order passed by this court on 23.2.2016 and thereafter the respondents have filed CA No. 63/2016 for issuing of contempt notice and CA No. 64/2016 for dismissal of the company petition on that ground. The main CP is posted for hearing on 7.7.2016 alongwith all the applications.

Having heard the learned counsel for the parties I am of the considered view with the public notice impugned in this application issued by one Mr. Vimal Kumar Jain, Indore would clearly indicate that there is some sort of transaction in the offing which relates to the property of respondent No.1 company. The respondents have neither affirmed the transaction indicating in the public notice nor they have been able to rebut any such transaction. It is simply maintained that public notice does not completely disclose the facts or any agreement. Therefore till the next date of hearing the public notice issued by Mr. Vimal Kumar Jain, Indore shall remain stayed as it violates the spirit of the statement made in the order dated 23.2.2016. It is further directed that both the parties namely petitioner and respondents would restrain from issuing any public notice with regard to order passed by this Board or in any other connection without specific permission from this Court. It is further clarified that the Respondent No.1-company shall not create any third party right or alienate/mortgage or create encumbrance on the asset of Respondent No.1-company in any manner till the next date of hearing.

Reply if any be filed within two weeks with a copy in advance to the counsel opposite. Rejoinder if any be filed within a week thereafter with a copy in advance to the counsel opposite.


(CHIEF JUSTICE M.M. KUMAR)
PRESIDENT

Dated: 10/06/2016
(Vidya)