

COMPANY LAW BOARD
NEW DELHI BENCH
NEW DELHI

CP NO. 26/MB/2015

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 15.02.2016

NAME OF THE COMPANY: **Sh. Shridhar Vasudeo Bedekar and Ors.**

Vs.

M/s. V. P. Bedekar and Sons Pvt. Ltd. & Ors.

SECTION OF THE COMPANIES ACT: 397, 398, 399 rw 402 and 403 of the Companies Act 1956.

S.NO. NAME DESIGNATION REPRESENTATION SIGNATURE

① MR. PRANAYA GOYAL
MR. SHUBHAM KULSHRESHTHA
i.e. M/s. Wadia Ghandy & Co.
for the respondents. } Advocates. } Pranyaj

② P K Mittal Ad for petition

③ Mrs. Anagha Anasingaraju P.C.S for
Petitioners Anagha

ORDER

CA No. 190/2015:

This is an application with a prayer to prevent the respondents, their agents from creating any additional liability and from alienating, encumbering or disposing of or creating any third party rights and/or interests in any movable and immovable property including plant & machinery of respondent No.1 company without prior

P.T.O.

approval of this Bench. It has also been prayed that the respondents may be restrained from transferring tenancies in the residential buildings in Mumbai owned by the respondent No.1 company without prior approval of this Bench and to direct the respondents to give option of first refusal to petitioners. There are other prayers which are not pressed at the time of argument.

2. Reply to the application as well as rejoinder by the petitioner have been filed.

3. I have heard the ld. counsel for the parties at length.

4. The whole genesis of this application emerges from the order dated 10.04.2014 which records the mentioning of the petition and grant limited ad interim order. After hearing the parties the Bombay Bench of this Board have passed an ad interim order granting relief for inspection of the statutory records to the petitioner and/or to their authorized representative to which they are entitled in their capacity as shareholders. It has been categorically observed that the remaining prayer for ad interim relief would be considered after reply to the petition was filed.

5. The reply to the petition as well as rejoinder have been filed. In fact the petition is listed for final disposal.


6. It is admitted position that the Board of Directors after passing a resolution have alienated by deed of conveyance immovable property situated at prime location at Dadar, Mumbai viz. building known as Bedekar Sadan No.1 and Bedekar Sadan No.2 bearing Cadastral Survey No.177 Mahim Division (now bearing final plot No.52 of TPS IV of Mahim Division, Ward No.GN 4304((), (10), (11), situated at junction of N.C. Kelkar road at Dadar, West, Mumbai -400 028 admeasuring about 579 sq yards equivalent to 484.12 sq.mt in Mumbai for an amount of Rs. 6 crores. It is undisputed that the above property has been sold in pursuance of the Board resolution and the petitioner-applicant has not questioned the sale price and transaction which stands admitted in para 8 of the rejoinder. However, what has been suggested in the prayer for interim relief has to be read in the backdrop of the allegations that the petition highlights the acts of oppression and mis-management. Therefore, it be conducive to the hearing of the petition that no alienation of the fixed assets takes place during the pendency of the petition.

7. Ld. counsel for the non-applicant-respondent has argued that the shareholder has no interest in the property of the company and as such he has no right to ask for interim relief of such a nature to stop the functioning of the company. Therefore,

it has been urged that no interim relief be granted. It has further been submitted that the petition is ripe for final disposal and on account of non-functioning of the Tribunal at Bombay it is taking more time than required.

8. Be that as it may, it is well settled that the shareholders do not as such any right in the property or the functioning of the company. However, when a petition under section 397 & 398 is filed by a shareholder alleging mismanagement or oppression then a statutory duty is cast by s. 402 on this Board to ensure that the interest of the company is not jeopardized and it may not become a shell company by the time the petition is heard finally. It is admitted case of the parties that this company has been doing the business of making masala/pickles and there are already two properties which have been sold establishing a factory for the aforesaid purpose. There is neither any proposal to further sell immovable property of the company nor any immediate necessity. The interests of the company must be protected particularly when already two prime properties stand sold. Therefore, in order to facilitate adjudication of the petition I deem it just and equitable to direct Respondent No. 1 company to maintain status quo with regard to fixed assets with a rider that if any such necessity is felt to alienate, encumber or dispose of or create any third party rights and/or interests in any immovable property including plant and machinery, it may be done only after obtaining prior permission of this Board.

9. Application is disposed of.


[CHIEF JUSTICE M.M. KUMAR]
CHAIRMAN

Date: 15.02.2016
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