

COMPANY LAW BOARD
NEW DELHI BENCH
NEW DELHI

C. P. NO. 22(ND)13
CA. NO.

PRESENT: B.S.V. PRAKASH KUMAR,
HON'BLE MEMBER

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NEW DELHI BENCH OF
THE COMPANY LAW BOARD ON 11.05.2016 AT 02.00 P.M**

**NAME OF THE COMPANY: M/s Seema Sexena & Ors. V/s. M/s. Pioneer Power Engineers
Ltd.**

SECTION OF THE COMPANIES ACT: 397/398

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
1.	Sangram Patraek		Adv R1-R7	[Signature]
2.	Shanta Pandey		~ R1-R7	
3.	Ankit Ku. Lal, Adv		Petitioners	[Signature]

Order

The petitioner has prayed for orders in relation to salary payable to P1 as per the orders dated 19.02.2013. The petitioner counsel also submits though hearing in the main petition has started some time before, owing to time constraint, it has not been completed. He further submits R1 is a family company constituted in partnership lines with three brothers. Now, the elder brother's wife, soon after demise of her husband, has got into trouble with the respondents. As she was not getting salary as a director of the company and not being given access to records of the company or access to the functioning of the company, she filed this Company petition stating that the conduct of R2 is prejudicial to the interest of the petitioner.

2. In view of the submissions made by the petitioner counsel, this Bench having noticed prima facie case in favor of the petitioner, had passed an order dated 19.02.2013.

P.T.O.

3. To which, the respondents counsel submits that R1 Company was paying salary to P1 as directed by this Bench, the company stopped paying salary only when P1 failed to sign upon the bank documents facilitating the company to avail credit facility. He further submits that the order dated 19.02.2013 has two parts, one is to provide salary to the petitioner, another is a direction to P1 to sign upon the bank documents as per the requirements of the bank.
4. For having the petitioner failed to sign upon the documents when those documents were tendered to her, R1 company was compelled to stop making payment to the petitioner, because payment of salary to the petitioner is dependent the petitioner signing of bank documents and she has not been to signing documents required to be filed with the banks.
5. The Respondent counsel further submits that as per Section 309 r/w Section 314 of the Companies Act, 1956, the petitioner is not entitled for salary unless she rendered her services to the company and none of the directors of the company are also entitled to salary if their salary is more than 10% of net profits of the company when there are more than two directors. On the top of it, since the company is in losses and not making net profit, the respondents counsel submits, the directors are not entitled to salary from a company which is in losses.
6. On hearing the submissions of either side, it might be true that the petitioner is barred from taking salary from the company if the salary is more than 5% of the net profits of the company. But the fact of the matter is, it is a family company come into existence to make a living out of it, but now, soon after the demise of P1 husband, she could not participate in the management of the company and for one or other reason, despite the petitioner side branch has 1/3rd stake in the company, she could not get any benefit out of the company at this juncture. There are fixed assets in the company. This Bench made several efforts in the past to bring the matter complained of to an end by an amicable solution between the parties but unfortunately it could not happen between the parties.
7. On seeing the facts of the case, it appears to me that there must be a solution to this problem sooner than later. For having the petitioner side already completed their submissions in this case, the respondents side is peremptorily directed to complete their submissions on the next date of hearing without any fail by filing written submissions one week before the next date of hearing

List the matter on 07.07.2016 at 10.30 a.m.



(B.S.V. PRAKASH KUMAR)
Member (Judicial)