

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 10 of 2021

In the matter of:

Manohar Kakumal Keshwani & Ors.

....Appellants

Vs.

Kishore Kakumal Keswani

....Respondent

Present

For Appellants: Mr. Virender Ganda, Sr. Advocate along with Mr. Aman Choudhary & Mr. Nirnay Gupta.

For Respondent: Mr. Manoj Harit, Advocate.

ORDER
(Virtual Mode)

08.02.2021: Learned Counsel for the Appellant submits that Ld. NCLT, Mumbai while passing the impugned order dated 12.11.2020 failed to consider that AGM had already taken place on the same day before hearing the Petition. The Impugned order is in the nature of an interim mandatory injunction, which was not a requisite for protecting the rights, if any of the Respondents. The impugned order directs that continuance of operations of Hotel after restarting as it was run before discontinuance of operations due to Covid-19 pandemic. The impugned order is vague, it is not clear that which party was in control and management of the Hotel before the Covid-19 Pandemic. It is also submitted that before passing of the impugned order, no opportunity was given to the Appellants to file Written Reply. Therefore, this order deserves to be set aside.

2. Learned Counsel for the Respondents submit that if we read the impugned order alongwith the documents then it is clear that the Respondents were in control and management of the Hotel before the Covid-19 Pandemic. Therefore, no interference is called for in this order.

3. we have gone through the impugned order, operative portion of the impugned order is under:-

“Accordingly, this bench hereby orders the continuance of operations of the Hotel after restarting, as it was run before discontinuance of operations due to Covid-19 Pandemic. No interference will be made in the operation of the Hotel by any party which is not involved in the day to day operations of the hotel.”

4. From bare reading of this order, it is not clear, which party was operating and managing the Hotel before discontinuance of operations due to Covid-19 Pandemic. It is also not clear against which party the order is passed that they will not interfere in the day to day operations of the Hotel.

5. Thus, the impugned order is set aside, Ld. Tribunal is directed that after affording opportunity to the parties, hear the matter again and pass reasoned and specific order with clear findings.

6. Thus, the Appeal is disposed of, however, no order as to costs.

7. The matter is listed for final hearing on 10th February, 2021

8. The Registry is directed to send the copy of this order to the Tribunal for compliance.

[Justice Jarat Kumar Jain]
Member (Judicial)

[Dr. Ashok Kumar Mishra]
Member (Technical)

SC/Kam