

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Company Appeal (AT) No. 196 of 2017

IN THE MATTER OF:

Lakshman Karia & Anr.

... Appellants

Versus

**GHK Hospitality & Infrastructures
Limited & Ors.**

... Respondents

**Present: For Appellants : Shri Krishnendu Datta with Shri
Aman Varma, Ms. Anshula Grover
and Shri Shantanu Parashar,
Advocates**

**For Respondent No. 2 : Ms. Prachi Wazalwar with Ms.
Shruti Iyer, Advocates**

ORDER

17.08.2017

I.A. No. 314 of 2017 :

Heard the parties. Being satisfied with the ground shown in the petition, delay of seven days in re-filing is condoned. I.A. No. 314 of 2017 stands disposed of.

Company Appeal (AT) No. 196 of 2017 ;

The appellants/petitioners preferred an application under Sections 241 and 242 of the Companies Act, 2013 alleging 'prejudicial' and 'oppressive' conduct of the 2nd to 4th Respondents to the interest of the appellants. While the Company Petition was

pending, the appellants preferred an application for interim relief for stay of Extra Ordinary General Meeting, which is to be held on 15th May, 2017, wherein it was proposed to remove the first appellant-Mr. Lakshman Karia, as the Director of the Company. The National Company Law Tribunal, Mumbai Bench, Mumbai (hereinafter referred to as 'Tribunal') by the impugned order dated 11th May, 2017, while refused to pass any interim order, issued formal notice on the contesting respondents for hearing the Company Petition on merits.

Today, when the matter was taken up, it has been informed that the Extra Ordinary General Meeting of the Company held on 15th May, 2017 and the first appellant-Lakshman Karia has already been removed as a Director. In the circumstances, the question of passing any interim order as prayed by the Appellant does not arise. For the said very reason, while we are not inclined to interfere with the impugned order dated 11th May, 2017, make it clear that any observation made by the Tribunal in its order dated 11th May, 2017, will not come in the way of the appellants/petitioners or the respondents for determination of the case on merits. The Tribunal is expected to decide the petition under Sections 241 and 242 of the Companies Act, 2013 on merit after hearing the parties, uninfluenced by the impugned order dated 11th May, 2017.

It is needless to state that if the allegation made by the appellants/petitioners are answered in affirmative in favour of appellants, it will be open to the Tribunal to grant appropriate relief in terms of Section 242 of the Companies Act, including restoration of the first appellant as the Director. We make it clear that we have not gone into the merits of the case and have not decided the claim and counter claim of the respective parties. It is for the Tribunal to decide the same.

The appeal stands disposed of with the aforesaid observations. However, in the facts and circumstances of the case, there shall be no order as to costs.

[Justice S.J. Mukhopadhaya]
Chairperson