

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 42-43 of 2017

IN THE MATTER OF:

Dharamdas Nandlal Mehta & Anr.

...Appellants

Vs.

Meridian Construction Pvt. Ltd.

...Respondent

Present: For Appellants:- Sh. Arun Kathpalia, Senior Advocate with Mr. Kunal Vajani and Mr. Shubham Kalshiestha, Advocates.

For Respondent:- Mr. Abhishek, Ms. Tamoghna Goswami and Mr. Sameer Abhyank, Advocates.

ORDER

28.07.2017- These appeals have been preferred by appellants-Dharamdas Nandlal Mehta & Anr, who were the Applicants/Petitioners before the National Company Law Tribunal (hereinafter referred to as "Tribunal) Mumbai Bench, Mumbai, against an interim order dated 13th January, 2017 passed in Interim Application No. 03 of 2016 in Transfer Company Petition No.31/(MAH)/2015.

2. The other order under challenge in the connected appeal is the order dated 8th February, 2017, whereby an order of injunction has been passed.

3. Earlier, we noticed that the main dispute during the pendency of the Company Petition related to an immovable property known as "Hendre House, Girgaon", Mumbai.

4. This Appellate Tribunal on 23rd February 2017 while issued notice to the respondents, prohibited them from making any further construction/alteration/renovation or any addition/change in the structure known as "Hendre House, Girgaon". Though it was alleged that the respondent violated the interim order passed by the Tribunal. Mr. Harresh N. Mehta, the 2nd Respondent was asked to appear, who appeared on 20th March, 2017 and filed an affidavit justifying his action which was rejected by this Appellate Tribunal. By order dated 23rd March, 2017, the Tribunal was also asked to proceed with the Company petition and the Contempt Petition(s) which were pending since long. Subsequently when the parties informed that they are settling the dispute, we granted long adjournment.

5. On 24th July, 2017, Ld. Counsel for the parties submitted that by way of last chance they should be allowed to file the terms of settlement and sought for two days' time. On the request of the Ld. Counsels for the parties, we adjourned the case with clear understanding that if no settlement is made, then the Appellate Tribunal may proceed with the appeal.

6. Today, when the matter was taken up again, Ld. Counsel for the parties informed that the terms of the settlement is almost going to be completed and prayed for time but we reject such prayer.

7. We have noticed that an interim order has already been passed by the Appellate Tribunal on 23rd February 2017 and the said interim

order has taken care of both the parties and continuing for last more than five months. Therefore, we are of the opinion that the said interim order passed on 23rd February 2017 should continue till the Company petition is finally disposed of by the Tribunal. If one or other party has not complied with any of the order passed by the Tribunal, it will be open to the Tribunal to pass appropriate order in the pending Contempt Petition(s), in accordance with law after notice to the Contemnor. However, we give liberty to the parties to settle the dispute. The case is remitted to the Tribunal for its decision. In case the settlement fails, the Tribunal will decide both the Company Petition on merit. In the meantime, if the parties file terms of settlement, the Tribunal will pass appropriate order taking into consideration the terms of settlement and close the Company Petition. In such circumstances, it will be open to the Tribunal to dispose of the Contempt Petition, if the contemnors tender unconditional and unqualified apology.

Both the appeals stand disposed of with the aforesaid observations and directions.

(Justice S.J. Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member(Technical)

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