

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 109 of 2019

IN THE MATTER OF:

Acuity India Resorts Pvt. Ltd. & Anr.

...Appellants

Vs.

Upendra Dutt Anthwal & Anr.

...Respondents

Present: For Appellant: - Mr. Rakesh Kumar and Mr. Ashish Khattar, Advocates.

For Respondents: - Mr. Nesar Ahmad, PCS and Mr. Rohit Chaudhary, Advocate.

O R D E R

06.05.2019— Having learned counsel for the Appellant and being satisfied with the grounds, the delay of 17 days in preferring the appeal is hereby condoned. I.A. No. 1544 of 2019 stands disposed of.

2. The Appellant has preferred this appeal against the interim order dated 22nd February, 2019, which reads as follows:

Contd/-.....

Annexure A-1

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National Company Law Tribunal
Allahabad Bench

ITEM NO : 2

CP No. 47/ALD/2019

ATTENDANCE - CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 22.02.2019

NAME OF THE COMPANY: Upendra Dutt Anthwal & Anr V/s Aculty India Resorts Pvt Ltd

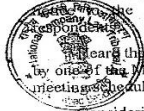
SECTION OF THE COMPANIES ACT: 241/244 of Companies Act

Sl. NO.	Name	Designation	Representation	Signature
1.	MR. ANURAG KHANNA, SR. ADV		} FOR PETITIONERS.	<i>[Signature]</i>
2.	MR. RAGHAV DWIVEDI, ADV.			

CP NO.47/ALD/2019

Sh. Anurag Khanna, Sr. Advocate along with Sh. Raghav Dwivedi, Advocate for the petitioners are present.

Heard learned counsel appearing for the petitioners. Petitioners counsel represented that they have dispatched the copy of the petition to the respondent on 21.02.2019. Petitioners moved an urgent application on 21.02.2019 under rule 13 of the NCLT Rules for listing the matter today on the ground that respondents are going to convene a Board meeting on 23.02.2019 pursuant to a requisition given by one of the Members of the company U/s 115 of the Companies Act for the removal of the petitioner from the Directorship of the company U/s 169(2) of the Companies Act. The urgent motion was allowed and the matter is listed today. Petitioner is directed to send notice to the respondents by email because of the urgency. Petitioner sent the respondents by email on 21.02.2019. None appeared for the



Heard the learned counsel for the petitioners. Perused the special notice given by one of the Members U/s 115 of the Companies Act and the notice of the Board meeting scheduled to be held on 23.02.2019.

Considering the urgency in the matter and in order to maintain balance of convenience, respondents are directed not to give effect to the resolutions, if any, passed pursuant to special notice dated 18.02.2019 in the Board of Directors meeting on 23.02.2019 till the next date of hearing. However, the Board of Directors meeting on 23.02.2019 can be held as per the agenda.

Petitioners are again directed to issue notice informing the date of hearing to the respondents and file proof of service. Respondents shall file their reply within two weeks from the date of receipt of notice serving a copy in advance to the petitioners. Petitioners shall file rejoinder, if any, within one week thereafter.

List the matter on 19th March, 2019.

Dated: 22.02.2019

(SAROJ RAJWARE)
MEMBER (TECHNICAL)

(BIKKI RAVEENDRA BABU)
MEMBER (JUDICIAL)

CERTIFIED TO BE TRUE COPY OF THE ORIGINAL

22/2/19
P. P. PANDEY
ASSISTANT REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL

Compared by Me
Hobanath Saha
22/2/19

No. of Application... 22/2/19
Amount of copying fees along with application...
Copy dispatched for delivery...
Notice without if any...
Date of delivery... 22/2/19

3. Having heard Mr. Rakesh Kumar, learned counsel for the Appellant and Mr. Nesar Ahmad, Practicing Company Secretary appearing on behalf of the 1st and 2nd Respondents, we are not inclined to interfere with

the impugned order and also find that the interim order has become infructuous in view of the fact that subsequent meeting of the Board of Directors has already been held.

4. The appeal is dismissed. No costs.

(Justice S.J. Mukhopadhaya)
Chairperson

(Justice A.I.S. Cheema)
Member(Judicial)

Ar/g