

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No.148 of 2017

IN THE MATTER OF:

N. Kasthur Reddy

...Appellant

Vs

Prakjyothi Constructions Pvt. Ltd.

...Respondent

Present: For Appellant:- Mr. G. Ramakrishna Prasad and Mr. Mohd. Wasay Khan, Advocates.

For Respondent: - Mr. Nikhil Nayyar, Mr. Tvsraghavendra Sreyas and Mr. Venkateshwar, Advocates.

ORDER

29.05.2017- This appeal has been preferred by Appellant against order dated 20th March, 2017 passed by National Company Law Tribunal (hereinafter referred to as "Tribunal"), Hyderabad Bench, Hyderabad, whereby and whereunder the Tribunal while accepted oppression against the appellant and ordered to restore the membership of Appellant, not granted any relief in so far it relates to allotment of shares, increase in the authorised share capital, sale deeds etc. issued during the period the Appellant was illegally thrown out.

2. The grievance of the Appellant is limited to the extent that the Tribunal has not passed any order about the share capital which were raised during intervening period and the subsequent allotment of shares, increase of the authorised share capital, sale deeds etc. as were issued.

3. We have heard Ld. Counsel for the Appellant and Respondents.

4. On hearing the parties, we find that the Appellant was illegally thrown out from the company by removal of his name from the Register of members of the Company on 22nd March, 2013. For the said reason, the Tribunal by impugned order has set aside the transfer of shares certificates of 4th and 5th Respondents and restored the membership of the Appellant. Thereby the Appellant has been brought back to the position which he was holding and status quo ante was restored. In this background, we are of the opinion that the Tribunal should have granted consequential relief to the appellant by declaring the subsequent allotment of shares, increase in the authorised share capital, sale deeds etc. issued or executed without notice to the Appellant during the intervening period, particularly when the Appellant has questioned all such transactions in his Company Petition.

5. In the result, we modify the impugned order dated 20th March, 2017 passed by Tribunal, Hyderabad Bench and in addition to set aside the transfer of shares dated 22nd March, 2013 which were made in favour of Respondent Nos.4 & 5, also set aside all the allotments of shares and increase in the authorised share capital which were made in favour of Respondents 6 to 13 during the intervening period with liberty to Respondent Company to increase the authorised share capital after giving opportunity to all the members/shareholders in accordance with law. The judgment dated 20th March, 2017 passed by Tribunal stands modified to the extent above.

6. The respondents are directed to make necessary consequential rectification in the register of members of the company within one month from the date of receipt of this order.

7. We make it clear that the relief aforesaid as granted is in addition to the relief already granted by the Tribunal. The appeal stands disposed of with aforesaid observations and directions. No cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member(Technical)

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