

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL****NEW DELHI****Company Appeal (AT) No. 329 of 2019**

**(Arising out of Judgement dated 1.10.2019 passed by National Company Law Tribunal, Kolkata in Cont.A.No.487/KB/2017; CA No.165/KB/2018; IA No.1211/KB/2018; and IA No.739/KB/2019 in CP No.42/KB/2016).**

**In the matter of:****IN THE MATTER OF:**

1. **Arun Gupta**  
A-115, Sushant Lok,  
Phase-I, Gurgaon,  
Haryana-122002

2. **Savita Gupta**  
A-115, Sushant Lok,  
Phase-I, Gurgaon,  
Haryana-122002

**...Appellants****Versus**

1. **South Eastern Carriers Limited**  
Having Registered Office at  
2<sup>nd</sup> Floor, 10, Phears Lane,  
Kolkata-700012

**...Respondent No.1**

2. **Yogendra Pal Jain**  
SCO-44, Old Judicial Complex,  
Civil Lines, Gurgaon-122001.

**...Respondent No.2**

3. **Siddharth Jain**  
SCO-44, Old Judicial Complex,  
Civil Lines, Gurgaon-122001.

**...Respondent No.3**

4. **Usha Kiran Jain**  
P-6/3, DLF City,  
Phase-2, Gurgaon,  
Haryana-122002.

**...Respondent No.4**

5. **Ravindra Kumar Gupta**

- (Self and Karta of Ravindra Kumar Gupta)  
4-D, Gee Gee Towers, 11, Herders Road,  
First Street, Chennai,  
Tamilnadu-600006 **...Respondent No.5**
6. **Tanmay Gupta**  
4-D, Gee Gee Towers, 11, Herders Road,  
First Street, Chennai,  
Tamilnadu-600006 **...Respondent No.6**
7. **Veena Gupta**  
4-D, Gee Gee Towers, 11, Herders Road,  
First Street, Chennai,  
Tamilnadu-600006 **...Respondent No.7**
8. **Manisha Mehta**  
Panch Complex,  
Fatehpur, Bedla Road,  
Udaipur-313004 **...Respondent No.8**
9. **Care Go Logistic Private Limited**  
Having its Registered Office at  
Flat No. 402, Baroda House Apartment,  
Group Housing Society,  
Sector-10, Dwarka,  
New Delhi-110075 **...Respondent No.9**

**For Appellants: Mr. Rakesh Kumar & Ms. Preeti Kashyap, Advocates.**  
**For Respondents: Mr. Ajay Gaggar, For R-2, 3 & 4.**

**J U D G M E N T**  
**(20<sup>th</sup> January, 2021)**

**Mr. Balvinder Singh, Member (Technical)**

**Introduction**

The present Appeal is being preferred under Section 421 of the Companies Act, 2013 against the impugned order dated 01.10.2019 passed by the National Company Law Tribunal, Kolkata Bench (NCLT,

Kolkata) in the Company Petition No. 42/KB/2016. In the impugned order NCLT, has appointed the Special Officer to preside and hold the meetings of the Board of Directors of the Respondent No. 1 Company periodically and to ensure implementation of the resolution passed in such meetings. The Special Officer was asked to submit his report on all the claims and current state of the affairs of the Respondent No. 1 Company within 60 days from the date of assumption of charge as Special Officer.

2. The NCLT, Kolkata while passing the impugned order have made the following observations in para 44, 45 and 46 of the impugned order dated 01.10.2019.

*“44. From the facts narrated above, it is apparent that the management/ owners are divided and have got grievances against each other. It is also observed that there are allegations of the formation of independent companies by petitioners as well as respondents no. 5 & 6 which is aimed at enriching themselves by diverting the business of respondent no. 1 company. There have been allegations of other acts by petitioners as well as respondent no. 5 & 6 regarding preferential/ undervalued transactions being prejudicial to the cause and the interest of the respondent no. 1 company. The erstwhile company law board and this Tribunal have taken note of these facts and passed aforesaid interim orders which also to have been alleged as non-compliant partially or fully.*

*45. Further, there have been adduced various documents from all parties to the dispute. The fact remains that these documents require an in depth and physical inspection/ verifications on the ground. The turn-over of respondent no. 1 company is also gradually decreasing along with the profits. The geographical reach also appears to be on decline.*

*46. In view of the above facts, we are of the considered view that it requires appointing of a Special Officer not only to investigate and ascertain the factual position but also to supervise the conduct of business by the persons having control of the operations of the respondent no. 1 company. Accordingly, we appoint **Shri D.C. Agrawal, Advocate,***

*(Mob. 09811586609, Email: [dcagrawal49@gmail.com](mailto:dcagrawal49@gmail.com)), who was Commissioner of Income Tax (Retd.) and ex-Accountant Member of Income Tax Appellate Tribunal and presently engaged in private practice as Income Tax Advocate. By virtue of his extensive experience of over 3 decades and proven integrity, he is fit to act as Special Officer of the respondent no. 1 company. The Special Officer shall discharge the following functions:-*

- (i) Special Officer shall preside and hold the meetings of the Board of Directors of the respondent no. 1 company periodically as per the provisions of law and will ensure implementation of the resolution passed in such meetings. The first Board Meeting shall be conducted within 15 days from the date of his assuming the charge of a Special Officer;*
- (ii) Special Officer shall also ensure that such resolutions are not prejudicial to the interest of the respondent no. 1 company and do not give rise to further litigations among the parties. For this purpose, minutes of such meetings shall be maintained and would be signed by all the participants mandatorily so that frivolous litigations is avoided. In case any party does not sign the minutes of meeting, then, the Special Officer shall be forwarding such minutes to them and will preserve the proof of delivery so that such party cannot claim otherwise subsequently;*
- (iii) Special Officer shall submit his report on all the claims and current status of the affairs of respondent no. 1 company within 60 days from the date of assumption of charge as Special Officer. Registry is hereby directed to provide copies of the petition along with pleadings of all parties to the Special Officer so that he can acquaint himself with the disputes and the reliefs sought by respective parties. Copy of the interim orders dated 3/5/2016 and 18.8.2016 shall also be provided.....”*

**Brief facts of the case.**

3. The Respondent No. 1 Company was incorporated in March 1974 by the family members and the connected persons for carrying on the business of transportation. As per the Annual Return filed for the Financial Year 2013-14, the shareholding of the Respondent No. 1 Company was as under:

<b>S. No.</b>	<b>Name of the Shareholder</b>	<b>Percentage of Shareholding</b>
1.	Yogendra Pal Jain (Respondent No. 2)	3.51%
2.	Usha Kiran Jain (Respondent No. 3)	16.49%
3.	Ravinder Kumar Gupta (Respondent No. 5)	11.52%
4.	Tanmay Gupta (Respondent No. 6)	4.99%
5.	Veena Gupta (Respondent No. 7)	23.50%
6.	Arun Gupta (Appellant no. 1 )	2.14%
7.	Savita Gupta (Appellant No. 2)	31.79%

4. That the Appellant No. 1 and Respondent No. 5 are the real brothers. The Respondent No. 2 is the brother in law of the Appellant No. 1 and the Respondent No. 5.
5. That the Company Petition i.e. C.P. No. 42 of 2016 was filed before the NCLT, Kolkata by the Respondent No. 2 and Respondent No. 4. The said Company petition was filed under section 235, 397, 398, 399, 402, 406 and 407 of the Companies Act, 1956 alleging various cause of Oppression and Mismanagement against the Appellants herein in the Respondent No.1 Company.
6. It was contended by the Respondent No. 2 in the said company petition that he was having the experience in the line of the business and the growth was due to his contribution. As per the contributions of the Respondent No. 2, the Respondent No. 1 Company was formally structured into four groups:

Group 1	Late Ram Kumar Gupta, and Smt. Uttama Gupta	25%
Group 2	Yogendra Pal Jain and his group	25%

Group 3	Ravinder Kumar Gupta and his group	25%
Group 4	Arun Gupta and his group	25%

7. That it was stated in the said petition that Ram Kumar Gupta (since deceased) had executed a will where under he had transferred his shares in the Respondent No. 1 Company to his wife Uttama Gupta and the said Smt. Uttama Gupta in consonance of wishes of her late husband Ram Kumar Gupta, had executed a will being dated 24.03.2005 and by which she had transferred her personal shareholding as well as shares held by Late Sh. Ram Kumar Gupta proportionately among the three Children being Smt. Usha Kiran Jain (Respondent No. 4) ; Appellant No. 1 and the Respondent No. 5 herein, in order to ensure that the each member would have an equal 33% shareholding.
8. The NCLT, Kolkata after hearing all the concerned parties has in the interregnum of the proceedings, appointed a Special officer Sh. DC Aggarwal, Advocate for carrying out the certain functions to preside over the meetings of the Board of Director of the Respondent No. 1 Company. The Special Officer has been asked to produce his report within 60 days from the date of assumption of charge as Special Officer. The pleadings in the main petition were completed but NCLT instead of disposing of the main petition, has appointed the special officer in order to verify the various allegations and grievances among the parties to the petition. The Appellant being aggrieved by the order of the NCLT have preferred the present appeal.

#### **Submissions on behalf of the Appellants**

9. The learned counsel for the Appellants submitted that earlier the Appellants had certain issues with the Respondent No. 5 and 6 due to

them to release their personal guarantees and certain other acts due to which the Appellants had filed the C.P. No. 176 of 2015 filed under section 397 and 398 of the Companies Act, 1956 before the Company Law Board (CLB) against Respondent No. 5 and 6. However, due to the settlement arrived between the Appellants and the Respondent No. 5 and 6, the said petition was withdrawn by filing CA No. 227 of 2016, vide order dated 11.04.2016 passed by NCLT.

10. It is further submitted by the learned counsel on behalf of the Appellants that in the said Company Petition the Respondent No. 1 has taken the plea that the correct shareholding pattern of the Respondent No. 1 Company is that Ravinder Kumar Gupta Group (Respondent No. 5 and Respondent No. 6) hold 40%; Appellants (Appellant No. 1 and Appellant No. 2) holds 40% and Yogendra Pal Jain Group (YPG) (Respondent No. 2 and Respondent No. 3) holds 20%. It has been stated that initially R K Gupta and Family had 80% shareholding and Yogendra Pal Jain Group had 20% shares. After the death of R K Gupta, three Groups were formed, but there had never been any understanding or intention that all three groups would have 33% shareholding in the company.
11. It is also submitted by the learned counsel for the Appellants that the Respondent No. 2 to 4, who are running the separate company i.e. ALPS Logistics, in which they are dealing with the similar business as of the Respondent No. 1 company and they are utilizing the reputation and goodwill of the Respondent No. 1 company. Further, they are diverting the business from the Respondent No. 1 Company and putting harm to the Respondent No. 1 Company.
12. It is stated on behalf of the Appellants that they have never obstructed the entry of the Respondent No. 2 and the Respondent No. 4 to enter into the premises of the Respondent No. 1 Company. In fact, they themselves are not attending the office. It is also stated that there has been no acts of Oppression and Mismanagement nor they have diverted or bifurcated the business of Respondent No. 1 Company as alleged in the

said Company Petition. Hence such claims of the Respondent No. 2 and Respondent No. 4 are without any substance.

13. It is contended by the learned counsel for the Appellants that NCLT, Kolkata has failed to consider that even the petition of Oppression and Mismanagement under Section 397 and 398 of the Companies Act, 1956 (now Section 240-242 of the Companies Act, 2013) are required to be disposed of within a specified time frame as per section 422 of the Companies Act, 2013 which is being reproduced as below:

(a) Every application or petition presented before the Tribunal and every appeal filed before the Appellate Tribunal shall be dealt with and disposed of by it as expeditiously as possible and every endeavor shall be made by the Tribunal or the Appellate Tribunal, as the case may be, for the disposal of such application or petition or appeal within three months from the date of its presentation before the Tribunal or the filing of the appeal before the Appellate Tribunal.

(b) Where any application or petition or appeal is not disposed of within the period specified in sub-section (1), the Tribunal or, as the case may be, the Appellate Tribunal, shall record the reasons for not disposing of the application or petition or the appeal, as the case may be, within the period so specified; and the President or the Chairperson, as the case may be, may, after taking into account the reasons so recorded, extend the period referred to in sub-section (1) by such period not exceeding ninety days as he may consider necessary.

14. It is further contended by the Appellants that the NCLT has interregnum of the proceedings, appointed the Special Officer Sh. D.C.



Aggarwal, Advocate for carrying out the certain functions to preside over the meetings of the Board of Directors of the Respondent No. 1 Company. The Special Officer has been asked to produce his report within 60 days from the date of assumption of charges as Special Officer. The NCLT has failed to consider that by doing such exercise, it is defeating the purpose of section 422 of the Companies Act, 2013, which mandates the requirement of disposal of the petition within the prescribed period of 3 months. The entire time will be spent on carrying out such exercise by the Special Officer when the said Company Petition would be disposed of by NCLT. It is matter of record that the said Company Petition being CP No. 42 of 2016 is pending consideration before NCLT since the year 2016. Even CA No. 739 of 2019 filed by the Respondent No. 2 was seeking the relief that the said Company Petition may be disposed of by seeking the early date of hearing of the main petition and for its final disposal. Whereas NCLT has passed contradictory order, thereby appointing the Special Officer in the interregnum and keep pendency of the said Company Petition which will not serve any purpose. NCLT has also not fixed any date of disposal of the said Company Petition. The NCLT has put the entire matter in limbo whereas, as per the provision of law, NCLT cannot keep pending the matter as has been done in the present matter vide impugned order dated 01.10.2019.

15. It is argued by the learned counsel for the Appellants that NCLT has failed to consider that since there are contentions of Respondent No. 2 and 3 that they claim to be the shareholding of 33% in the Respondent No. 1 Company, the said aspect cannot be determined by the Special Officer. It would be proper for the NCLT first to determine the said issue and appoint a valuer for making an exit of the Respondent No. 1 Company on the basis of the valuation. Even the allegation of siphoning of funds, etc. could have been considered by the independent valuer. The said process would have led to ending the dispute among the parties. Whereas, now passing the impugned order, the tension among the parties may further escalate as

even after the Special Officer gives his report and the said report is challenged it will further escalate the issues among the parties and it may not be in consonance even with Section 242(2) of the Companies Act, 2013, which provides that the jurisdiction of the NCLT is to put an end to the dispute between the parties. Also, NCLT nowhere states that how and in which manner the Special Officer will provide such report.

16. The learned counsel for the Appellants further contended that the NCLT has passed the impugned order in the abrupt manner. The pleadings of the main petition were completed. Even the pleadings to the interim applications were completed. Even the relief was sought by the Respondent No 2 in I.A. No. 739/2019 for the disposal of the main petition. The NCLT has exceeded its jurisdiction by passing the impugned order, thereby appointing the Special Officer.

**Submissions on behalf of the Respondent No. 2**

17. It was submitted by the Respondent No. 2 that the Appellant No. 1 clandestinely formed a new company by the name M/s Care Go Logistics Pvt. Ltd. (Respondent No. 9). Appellant No. 2 and Mr. Archit Gupta (son of Appellant No. 1 & 2) were shown as major shareholders and Directors of this newly formed company. Appellant No. 1 then started diverting the staff of customers of Respondent No. 1 Company to this newly formed company. Due to this circumstances the Respondent No. 1 Company issued notice for holding an Extraordinary General Meeting (EGM) for removing the Appellant No. 1 as Director. However the Appellants filled an application under section 397/398 of Companies Act, 1956 before the CLB for staying the proceedings of EGM.
18. It was further submitted by the learned counsel for Respondent No. 2 that the Appellants and Respondent No. 5 group entered into amicable arrangements by virtue of which appellants withdrew their petition. Thereafter, Appellant No. 1 group alongwith Respondent No. 5 group issued a notice holding an EGM for removing Respondent No. 2 and Respondent No. 3 from the Directorship of Respondent No. 1 Company,

which prompted the Respondent No. 2 to immediately file an application under section 397/398 of the Companies Act, 1956 against the Appellant and other Respondents in NCLT, Kolkata.

19. The Learned Counsel on behalf of the Respondent No. 2 further stated that some of the salient causes of Oppression and Mis-management are enumerated below:

(a) The Appellants along with their son have formed a new company being Respondent No. 9 with the same line of business as Respondent No. 1 and have taken away valuable clients of Respondent No. 1 into Respondent No. 9 along with the experienced staff of Respondent No. 1.

(b) The Appellants have leased out valuable properties of Respondent No. 1 to their son for running his personal business of said premises at legal rent.

(c) The Respondent No. 5 has been suffering from Alzheimer disease, therefore physically incapable of performing his duties as manager but yet receiving a hefty salary from Respondent No. 1.

(d) The Respondent No. 2 and Respondent No. 3 have not been able to access their Email-Id as password has been changed by the Appellants.

(e) The Appellants filed their reply to the said application wherein they have disclosed that memorandum of understanding was entered into by and between the Appellants and Respondent No. 5 groups by virtue of which it was decided between the parties thereto that the branches of Respondent No. 1 shall be divided between both the groups by virtue of which the Appellants would taking control of the Respondent No. 1 with the demarcated branches balance branches to the new company under the control of Respondent No. 5 group. Thus, by such division the Respondent No. 2 and Respondent No. 3 completely left in lurch with no powers in any of the companies.

20. It was further stated on behalf of the Respondent No. 2 that during the pendency of the said application the Appellants continued to carry out further acts of Oppression and Mismanagement. The candidature of Respondent No. 2 and Respondent No. 3 as Directors of Respondent No. 1 was revoked and inducted new outside directors who have been boyhood friends of Appellant No. 1 and who do not possess any knowledge of running Respondent No. 1 Company.
21. It was further stated by the Learned Counsel for Respondent No. 2 that the operations of Respondent No. 1 was completely mismanaged by the Appellants which led to huge financial losses to Respondent No. 1 Company and which can be easily reflected from its financial accounts, wherein the turnover of the Company has drastically dropped from Rs. 222 crores as on 31.03.2015 to approximately Rs. 9 crores as on 31.03.2018. Interestingly, the turnover of Respondent No. 9 company floated by Appellant No. 2 and her son in or around April 2015, went up to Rs. 93.90 crores in the Financial Year, 2017-18. This clearly shows the shifting of business from Respondent No. 1 Company to Respondent No. 9 by the Appellants.
22. It was also stated by the learned counsel for the Respondent No. 2 that the Appellant No. 1 and his son broke away the cabins of Respondent No. 1 Company which were under the possession of Respondent No. 2 & 3 for which necessary FIR was filed against Appellant No. 1 & his son on 21.06.2017 bearing FIR number 0531 at police station at Civil Lines, Gurgaon.
23. It was also stated on behalf of Respondent No. 2 that Appellant No. 1 by misusing his powers as Director and trustee of Gratuity fund maintained by Life Insurance Corporation fraudulently withdrew the Gratuity amounts of Respondent No. 2 & 3 amounting to approx. 66 lacs. An FIR against the Appellant No. 1 was filed on 20.07.2019 vide FIR No. 0237 at DLF II Police Station, Gurgaon. It was also mentioned that as per order of CLB dated 03.05.2016, the High Court of Punjab & Haryana

upheld the Directorship of Respondent No. 2 & 3 and further directed the Appellant No. 1 to deposit back the Gratuity amount withdrawn by him to the concerned fund at Life Insurance Corporation with interest.

24. It was also stated by the learned counsel for the Respondent No. 2 that the Appellants have closed down various branches of the Company as well tried to dispose of/ alienate the valuable assets of Respondent No. 1 Company. It was quite evident that the Appellants have with malafide intentions not only stripped off the business of the Respondent No. 1 but have also removed the Respondent No. 2 and Respondent No. 3 as directors of Respondent No. 1 with an ulterior motive to take over complete control of Respondent No. 1.
25. It was also stated on behalf of Respondent No. 2 that from time to time various applications were filed to bring on record the various instances of Oppression and Mismanagement as caused by the Appellants and even filed a contempt against the Appellants for having removed the Respondent No. 2 and 3 as directors of Respondent No. 1 inspite of the order of Status Quo by the CLB under order dated 03.05.2016. It was stated that the Appellant No. 1 and 2 and Respondent No. 5 to 8 started acting in a manner which is oppressive towards the answering Respondent No. 2 and 3 in an aggravated manner.
26. It was further stated by the Respondent No. 2 that he had specifically prayed in the application under main petition being CP No. 42 of 2016 filed before the NCLT, Kolkata for (i) maintaining status quo as regards the shareholding, share capital structure and composition of Board of Directors of Respondent No. 1; (ii) restraining the Appellants in various ways so as to safeguard the interests of the Respondent No. 1; (iii) restraining the Appellants from obstructing the Respondent No. 2 and 3 from conducting the affairs of the company in any form and manner and also from prohibiting petitioners' entry in the offices of branches of the company and, in particular, the office situated in Gurgaon, (iv) to appoint Special Officer/ Administrator to conduct the affairs of the Company, (v)

to appoint inspector/ investigators for conducting investigation into the affairs of the company and to report the same to Board of Directors.

27. It was contended by the learned counsel for the Respondent No. 2 that it is clear the NCLT, Kolkata after taking into consideration the admitted disputes between the parties, had passed such an order to protect and preserve the assets of the company, It is an admitted fact that the Appellants along with Respondent No. 5 group have divided the company for their own beneficial interest behind the back of Respondent No. 2 so far as the shareholding of Respondent No. 1 is concerned it was clear that the shareholding pattern shall be equal within the three groups as stated above. The financial mismanagement is evident from its financial statements. The Company Secretary of Respondent No. 1 has also blamed the Appellant No. 1 for conducting mismanagement of Respondent No. 1.
28. The learned counsel for the Respondent No. 2 further contended that in the interest of the answering Respondent that the prayers of the main petition as stated above should be considered in order to stop the Appellants from further carrying out any form of Oppression and Mismanagement and in the process of developing the value of assets of Respondent No. 1. The is also mentioned by the learned counsel that the parties hereto had tries to enter into mediation through senior industry leaders and the close family members, but unfortunately such disputes could not be resolved by way of mediation. Therefore, it is in the interest of the Appellants and the Respondents hereto either to liquidate the Respondent No. 1 and divide the valuable assets amongst the Appellants and Respondents through the Special Officer as duly appointed by NCLT, Kolkata. Alternatively the Respondent No. 2 is also prepared to sell his stake in Respondent No. 1 to the Appellant or to Respondent No. 5 group at market valuation of its assets.
29. It was also contended by the learned counsel for the Respondent No. 2 that the main Company Petition being CP No. 42 of 2016 is pending from three years. It is therefore, prayed that this Appellate Tribunal may be

pleased to direct the NCLT to dispose of the main petition expeditiously after addressing the disputes in issue. It was necessary for appointing a special officer to prevent further depletion of assets of the company till the company can be managed properly. It was further prayed that this Appellate Tribunal may issue just and equitable directions including order for exit of any of the parties in accordance to the accepted shareholding, after directing a final valuation to be done of the Company by the esteemed valuer. The valuation was done in the year 2015 showing valuation of the company at 51 crores which be taken as a bench mark. The valuation has carried out by M/s MSP Consulting, the sister concern of M.s V N Purohit & Co. who have been the statutory auditors of the company since its inception.

### **Appraisal**

30. Having heard to the parties and pursued the records we have observed that under the Company Petition filed before the NCLT, Kolkata being CP. No. 42 of 2016 there were allegations and grievances among the management/ owners. The NCLT, Kolkata had felt the need that the various documents adduced from all the parties require an in-depth and physical inspections/ verification on the ground. For this NCLT, Kolkata have appointed a Special Officer to make a detailed report and to ensure there is no deadlock in management by ensuring implementation of the resolutions passed in the Board Meetings which shall be presided by such Special Officer.
31. The contentions of the Appellants that NCLT, have exceeded its jurisdiction by appointing a Special Officer has been taken down as Section 242(4) have given general power to the NCLT to make any interim order which it thinks fit for regulating the conduct of the company's affairs upon such terms and conditions as appear to it to be just and equitable. Since, there were numerous allegations made under the Company Petition

it was needed to be verified and no order could be passed abruptly until the allegations and grievances are examined completely.

32. The Special Officer being an officer appointed by the Tribunal was given the power under the impugned order to supervise, conduct and preside over the Board meetings and ensuring the implementation of the resolutions passed in the said Board meetings. The Special Officer was ordered to ensure that such resolutions shall not be prejudicial to the interest of Respondent No. 1 Company so that frivolous litigations may be avoided and for this Special Officer was asked to make the complete Minutes of the meetings and get it signed by all the participants mandatorily. The Special officer was asked to submit its report within 60 days from the date of taking the charge. Therefore, the contention on behalf of the Appellant that the report of Special Officer will further escalate the issues among the parties is a matter of speculation and cannot be given due consideration. In fact, the report will give a true and fair picture of the state of affairs of the Respondent No. 1 Company.
33. The Contention of the Appellants that the petition under section 422 of the Companies Act are required to be disposed of within a specified time frame and by appointing the Special Officer it is defeating the purpose of Section 422 of the Companies Act, 2013. This Contention of the Appellant is duly considered but since there were pleadings going on and various applications bearing No. CA No. 487/KB/2017; CA No. 165/KB/2018, CA No. 1211/KB/2018, CA No. 739/KB/2019 were filed before the NCLT, Kolkata, no order could have been passed abruptly. Since the pleadings were pending and in order to protect and preserve the assets of the Company from being depleted, NCLT had appointed the special officer in the interregnum and also for the detailed verification of the various allegations imposed by the parties against each other, it was correct to appoint an officer.
34. Nothing has been brought on record in relation to the report of the Special Officer. There is nothing on record what are the actions taken by



the NCLT, Kolkata on the basis of such report. Also, inspite of the directions parties have not filed any Written Submissions. The matter is pending before the NCLT, Kolkata, we do not find any reason to entertain the present Appeal.

35. We therefore, dismiss the Appeal on the basis of aforementioned observations. No order as to cost.

**[Justice Jarat Kumar Jain]**  
**Member (Judicial)**

**[Balvinder Singh]**  
**Member (Technical)**

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