

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No. 23 of 2020

IN THE MATTER OF:

1. **Shivi Holdings Private Limited**
A Company incorporated under
The Companies Act, 1956
Having incorporation number:
U65921DL1984PTC152425
Having its registered office at:
G-16, Marina Arcade
Connaught Circus
New Delhi – 110001
Through its Authorized Representative/Director
...Appellant No.1
2. **Dr. Shivinder Mohan Singh**
Director/Shareholder of Shivi Holdings Pvt. Ltd.
S/o Late Dr. Parvinder Singh
R/o C-110, South Extension Part-2
New Delhi – 110049
...Appellant No.2

Versus

1. **RHC Holding Private Limited**
A company incorporated under
The Companies Act, 1956
Having incorporation number
U67190DL2007PTC162322
Having its registered office at:
G-16, Marina Arcade
Connaught Circus
New Delhi – 110001
...Respondent No.1
2. **Malvinder Mohan Singh**
S/o Late Dr. Parvinder Singh
R/o 26, Maulsari Avenue
Western Greens, Rajokri
New Delhi – 110038
...Respondent No.2
3. **Malav Holdings Pvt. Ltd.**
Through its Director
A company incorporated under
The Companies Act, 1956
Having its registered office at:
G-16, Marina Arcade
Connaught Circus
New Delhi – 110001
...Respondent No.3

4. **The Registrar of Companies**
4th Floor, IFCI Tower
61, Nehru Place, Delhi – 110019
Near Nehru Place Metro Station **...Respondent No.4**
5. **The Regional Director**
Northern Region
Ministry of Corporate Affairs
B-2 Wing, 2nd Floor
Paryavaran Bhawan
CGO Complex
New Delhi – 110003 **...Respondent No.5**
6. **Mr. Sanjeev Kumar Singhal**
G-16, Marina Arcade
Connaught Circus
New Delhi – 110001 **...Respondent No.6**
7. **Mr. Vinod Rajagopalan**
G-16, Marina Arcade
Connaught Circus
New Delhi – 110001 **...Respondent No.7**

Present:

For Appellant: Mr. Abhijeet Sinha, Ms. Neeha Nagpal and Ms. Viswendu Tomar, Advocates

For Respondent: Mr. Shambo Nandy and Ms. Akanksha Kaushik, Advocates for Respondent No. 2 & 3

ORDER

31.01.2020 Heard Learned Counsel for the Appellant and Learned Counsel for Respondents No.2 and 3. It is stated that Respondents No.6 and 7 are only employees of the Company. Learned Counsel for Appellant states that the Respondent No.1 Company has only two Directors and both the Directors have been proceeded against by Enforcement Directorate and they are in custody. It is stated that the two Directors are Mr. Shivender Mohan Singh and Mr. Malvinder Mohan Singh. The Learned Counsel for Appellant states that both these Directors have also been suspended. It is stated that there is no Board of Directors available for running the Affairs of the Company and thus

the Company is in trouble and that Respondents No. 6 & 7 are only employees who have in the High Court represented that they are authorised to represent the Company. It is stated that Respondents No.6 and 7 are relying on an earlier authorisation before the action has been taken against the two Directors. Advocate appearing for Respondent No.2 and 3 has appeared on his own and agrees that there are only two Directors of the Company and both are in custody and there is no Board of Directors available in the Company.

2. The Learned Counsel for Appellant is referring to orders passed by this Tribunal in an earlier Appeal Company Appal (AT) No.186 of 2019 (Annexure A-10, Page 158) which reads as under:

“22.07.2019 Learned counsel appearing on behalf of the Appellant submits that the dispute is between the two brothers and therefore request was made to the Tribunal for early hearing in the matter. However, the matter has been adjourned for 22nd August, 2019.

Learned counsel for the respondent submits that the respondent has no issue for early hearing the matter. However, it is not clear as to what is the position of the Tribunal whether it can dispose of the matter at an early date based on their daily cause list. In the circumstances, we give liberty to the parties to move before the Tribunal for referring the matter for mediation before the ‘Mediator’, if they so choose. If the parties do not agree for mediation and if the matter is not heard, it will be open to the Tribunal to pass an interim order on the request of any of the party. The appeal stands disposed of.

3. It is stated that effort for mediation has failed and although the Appellant filed two applications (i) C.A. No.1325 of 2019 (Annexure A-9) and (ii) C.A. No.2581 of 2019 (Annexure A-18) so that independent Directors could be

appointed by the National Company Law Tribunal for protecting the existence and managing of the Company, no order as yet have been passed. It is stated that when the matter came up on 20th February, 2020, Hon'ble Tribunal merely passed Impugned Order adjourning the matter to 19th February, 2020.

4. Even without issuing of notice, we have had the benefit of assistance from Learned Counsel for Respondents No.2 and 3.

5. On the basis of the facts stated, it appears to us that there is no necessity of issuing formal notice and hearing the Respondents. It will be appropriate that the two C.As referred to by the Learned Counsel for the Appellant are decided early by the National Company Law Tribunal, New Delhi. Considering the facts stated by the Learned Counsel for the Appellant, we are sure that the Learned National Company Law Tribunal would also appreciate the urgency to pass orders one way or the other.

6. With these observations, the Appeal stands disposed of.

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

[Justice Anant Bijay Singh]
Member (Judicial)

[Shreesha Merla]
Member (Technical)

pks/md