

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) No.278 of 2017

IN THE MATTER OF:

Balraju Sunkari & Ors

...Appellants

Vs

N. Sekhar Reddy & Ors

...Respondents

**Present: Mr. M.L. Sharma, Advocate for the appellant.
Mr. Dr. S.V.Rama Krishna, Advocate for Respondent No.1 and
2.**

ORDER

23.10.2017- Heard Learned counsel for the appellant and learned counsel for the Respondent. Perused the record. The appeal has been filed against the interim order dated 28th July, 2017. The Learned counsel for the appellant is submitting that the Company Petition was not maintainable and so Company Application was filed objecting the same but it was disposed off on the same day. It is stated that although the order mentions that the allegations made by both the parties are required to be examined at the time of final hearing, no opportunity was given to file the reply to the Company Petition and without ensuring compliance of stages before matter comes up for final hearing, it has been posted for final hearing.

It appears that earlier there was a Company Petition No.55 of 2014 which was withdrawn by granting leave to the petitioner to file fresh Company Petition for the same cause of action by taking all available pleas and thus the Company Petition has been filed. Counsel for appellant accepts that the earlier order granting leave was not challenged. Learned NCLT referred to the dispute in Company Petition No.55/2015 and dispute which is now raised and observed that the allegations are required to be examined and to consider the contents in part would cause further delay to decide the case. It observed that in such

circumstances it would appropriate to decide the main case itself immediately after completion of pleadings.

For such reasons, vide the impugned order the Company Application No.136/2017 in Company Petition No.74/241/HDB/2017 was disposed. In the order the last sentence says that Company Petition is posted for final hearing on 30.08.2017. Counsel for the Respondent agrees that the pleadings are not yet complete. In fact the impugned order directs Respondents in para 8 to file comprehensive reply to all allegations made in the company petition apart from the contentions and allegations which they had raised in the application. Thus by this impugned order the Learned NCLT kept the doors open for the appellant to raise contentions it wants to raise. We have not doubts that the NCLT will receive the reply as was directed in para 8 of impugned order and follow the necessary procedure.

We donot find any reason to interfere in the impugned order. We find no substance in the appeal. The appeal is rejected.

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

(Justice Bansi Lal Bhat)
Member (Judicial)

(Mr. Balvinder Singh)
Member (Technical)

Bm/sh/nn