

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, CHENNAI
(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) No.12/2021

(Under Section 421(1) of the Companies Act, 2013)

(Arising out of Order dated 03.03.2021 passed in I.A.No.1021/2020 and IA No.126 of 2021

in Company Petition No.117/241/HDB/2019

by the National Company Law Tribunal, Hyderabad Bench at Hyderabad.

In the matter of:

Oyster Medisafe Private Limited
Through its Authorized Representative
Mr.Indranil Mukherjee having its
Registered Office at SY.No.722, Dabilpur Village,
Medchal Mandal, Telangana 50140
Email id legal.in@bbraun.com

...Appellant

V

1. Sridhar Vasireddy
S/o Mr.Vasireddy Satyanarayana
R/o 19203, Gentle Oak Cove
San Antonio, Texas-78258
United States of America
sridharvasireddy@hotmail.com
Through Pusuluri Prudhvi
SPA Holder of Mr.Sridhar Vasireddy
R/o Plot No.362, Secretariat Colony
Manikonda, Puppalaguda
Hyderabad-500089, Telangana
prudhvipusuluri@outlook.com

...Respondent 1

2. Ajith N.Kumar, S/o Mr.N.U.Rao
R/o 1 Cascade Court East
Burr Ridge, Illinois-60527
United States of America
Through Pusuluri Prudhvi

SPA Holder of Mr.Sridhar Vasireddy
R/o Plot No.362, Secretariat Colony
Manikonda, Puppalaguda
Hyderabad-500089, Telangana
prudhvipusuluri@outlook.com.

Present :

For the Appellant : Mr.A.S.Chandhiok, Senior Advocate
Mr.NPS Chawla, Advocate

For the Respondent : Mr.D.V.K.Phanindra, Advocate

J U D G E M E N T
V I R T U A L M O D E

Heard Both sides.

The submission of the Learned Senior Counsel for the Appellant is that the last two lines of the impugned order dated 03.03.2021 (but pronounced on 22.03.2021) in IA No. 126 and 1201 /2019 in CP No. 117/241/HDB/2019 passed by the National Company Law Tribunal, Hyderabad Bench inter alia to the effect that ‘However, this order is subject to the final outcome of the main petition’, is incorrect, because of the fact that the National Company Law Tribunal, Hyderabad Bench in the impugned order dated 03.03.2021 (but pronounced on 22.03.2021) it self had made some observations to the effect that ‘... However, after verifying the records it is clear that the interim order was valid till 11.06.2019. As such the order as to be modified/corrected. Accordingly we are of the view that having given an opportunity to the existing shareholders to subscribe to the rights issue in the instant case, the petitioners on their own volition have chosen to forego their right to subscribe the rights issue, therefore, the company is at liberty to use the funds raised through right issue and no bar to effect consequently changes, if any, in the shareholding pattern of the Company’ and as such, the observations made by the National Company Law Tribunal, Hyderabad Bench in the impugned order dated 03.03.2021 to the effect that ‘ However, this order is subject to the final outcome of the main Company Petition’ are only a surplusage, redundant and supernumerary one.

Per contra, the Learned Counsel for the Respondents contents that the CP No. 117/241/HDB/2019 is pending on the file of the National Company Law Tribunal, Hyderabad Bench as on date, and ultimately, if the main company petition is determined in the favour of the Respondents, then, how the National Company Law Tribunal, Hyderabad Bench will put the clock back.

This Tribunal has heard the Learned Senior Counsel for the Appellant and the Learned Counsel for the Respondents and noticed their contentions.

On a careful consideration of the respective contentions, this Tribunal, quite in the fitness of things deems it fit and proper to pertinently observe that the words 'However, this order is subject to the final outcome of the main Company Petition' occurring in the impugned order will not prejudice the rights and contentions of respective parties to the main CP No. 177/241/HDB/2019 on the file of the National Company Law Tribunal, Hyderabad Bench. Also that, the parties are at liberty to raise all the factual and legal pleas in CP No. 117/241/HDB/2019 pending in the file of the National Company Law Tribunal, Hyderabad Bench and to seek redressal of their grievances in accordance with Law, if they so desire/advised.

With the aforesaid observations and directions, the Comp App (AT) (CH) No. 12/2021 stands disposed of. No costs. All the connected applications are also closed.

[Justice Venugopal M]
Member (Judicial)

[V.P.Singh]
Member (Technical)

CHENNAI
12.4.2021
KM