

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

**Company Petition No. 90 of 2011**

***An application under Section 397, 398, 399, 402, 403, 404 and  
406 of the Companies Act, 1956.***

**IN THE MATTER OF:  
Ramesh Agarwal & Ors.**

**... Petitioners**

***Versus***

**Canadian Crystalline (India) Private Limited & Ors.**

**... Respondents**

**Date of Pronouncement: 26<sup>th</sup> of April, 2024**

**CORAM:**

**SMT. BIDISHA BANERJEE, MEMBER (JUDICIAL)**

**SHRI. D. ARVIND, MEMBER (TECHNICAL)**

**APPEARANCE:**

**Ms. Meenakshi Manot, Adv.                     ]       For the Petitioner  
Ms. S. K. Poddar, Adv.**

**Mr. Sib Sadhan Ray, Adv.                     ]       For the Respondent  
Mr. Goutam Basu, Adv.  
Mr. Joydeep Banerjee, Adv.**

**ORDER**

**Per: D. Arvind, Member (Technical):**

1. The Court congregated through hybrid mode.
2. Heard Ld. Counsels for the parties.
3. This Company Petition has been preferred by **Mr. Ramesh Agarwal, Smt. Anju Agarwal and Smt. Keshari Devi Murarka** (hereinafter referred as **“Applicants”**) against **Canadian Crystalline (India)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

C.P. No. 90 of 2011

---

**Private Limited and Shankar Lal Agarwal** (hereinafter referred as “**Respondents**”) seeking following reliefs:

- a) Declaration that any policy making decision taken after 01.04.2005 by the respondent No. 2 and Prabhudayal Goenka, the respondent No. 3, since deceased, and the purported Board meetings of the respondent No. 1 company shown to have been held between 03.05.2010 and 27.08.2010 and all purported minutes and resolutions relating thereof are void, illegal and not binding on the respondent No. 1 company and/or you petitioner and/or its shareholders.*
- b) Declaration that the purported documents so filed by the respondent No. 2 and Prabhudayal Goenka, the respondent no. 3, since deceased, whether by themselves or by their servants, agents and/or assigns and/or otherwise howsoever are void, illegal and not binding on the respondent No. 1 company and/or its shareholders.*
- c) The purported minutes and resolution relating to the Board meetings of the respondent No. 1 company so shown to have been held subsequent to 03.05.2010 and 27.08.2010 be delivered up and cancelled upon the same being adjudged null and void.*
- d) The purported documents relating to the Board Meeting of the respondent No. 1 company so shown to have been held subsequent to 03.05.2010 and 27.08.2010 be delivered upon and cancelled upon the same being adjudged null and void.*
- e) Permanent injunction restraining the respondent no. 2 whether by himself or by his servants, agents and/or assigns and/or otherwise howsoever from giving effect or further effect to the purported Board Meetings of the respondent No. 1 company and/or the minutes so recorded of the said Board Meetings of the respondent No. 1 company shown to have been held subsequent to 03.05.2010 and 27.08.2010 in any manner whatsoever.*
- f) Permanent injunction restraining the respondent no.2 whether by himself or by his servants, agents and/or assigns and/or otherwise howsoever from giving any effect or further effect to the policy decision purportedly taken after 01.04.2005 at Board Meetings of the respondent No. 1 company and/or the notices, if any, issued by the respondent Nos. 2 and Prabhudayal Goenka*

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

C.P. No. 90 of 2011

---

*the respondent no. 3, since deceased, in the name of the respondent No. 1 company and/or the notices, if any, issued by the respondent No. 2 and Prabhudayal Goenka the respondent no.3, since deceased, in the name of the respondent No. 1 company conveying the said Board Meetings or for any other issues with regard to the control and management of respondent No. 1 company subsequent to 03.05.2010 and 27.08.2010 in any manner whatsoever.*

- g)** *Permanent injunction restraining the respondent No.2 from giving any effect to the said resolution so taken in the Board meetings of the respondent No. 1 company subsequent to 03.05.2010 and 27.08.2010 in any manner whatsoever.*

**Interim Reliefs:**

*Your petitioners state and submit that there is extreme urgency in the matter inasmuch as the respondent Nos. 2 and 3 till demise of the respondent no.3 had and the respondent no.2 has purportedly taken steps previously to wrongfully and illegally issue and enhance shares in their favour and were threatening to further increase the paid up share capital of the company again in attempt to oust your petitioner from getting a right over the control and management of the respondent No. 1 company. In the circumstances it is humbly prayed that this Hon'ble Board may be pleased to pass an order for:*

- a)** *Temporary Injunction do issue prohibiting the respondent no.2 and/or his men, servants, agents and assigns from giving any effect or further effect to the policy decision purportedly taken after 01.04.2005 at the Board Meeting of the respondent No. 1 company and participating in the day to day affairs of the respondent no. 1 company.*
- b)** *Temporary Injunction do issue prohibiting the respondent No. 2 from operating the bank account No. SIB/554, Goa Bagan Branch, State Bank of India and also Cash Credit Account with West Bengal Co-operative Bank Ltd. Of the respondent No. 1 company.*
- c)** *Temporary Injunction restraining the respondent No. 2 from acting as Director of the respondent No. 1 company.*
- d)** *An interim order appointing an independent Administrator over the respondent No. 1 company and/or its sister concerns and/or other companies.*
-

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

*C.P. No. 90 of 2011*

---

- e) Temporary Injunction restraining the respondent no.2 from acquiring and/or selling any property of the company.*
  - f) Pass an interim order restraining the respondent no. 2 whether by himself or by his servants, agents and/or assigns and/or otherwise howsoever from giving any effect or further effect to the policy decision purportedly taken after 01.04.2005 at the Board Meeting of the respondent No. 1 and also from giving any effect or further effect to the purported Board meetings of the respondent No. 1 company and/or the minutes so recorded of the said Board meetings of the respondent No. 1 company shown to have been held subsequent to 03.05.2010 and 27.08.2010 in any manner whatsoever.*
  - g) Pass an interim order restraining the respondent no.2 whether by himself or by his men servants, agents and/or assigns and/or otherwise howsoever from giving any effect or further effect to the purported Board Meetings of the respondent No. 1 company and/or the notices so issued by the respondent Nos. 2 and the respondent no. 3 since deceased in the name of the respondent no. 1 company conveying the said Board Meetings or for any other issues with regard to the control and management of the respondent No. 1 company subsequent to 03.05.2010 and 27.08.2010 in any manner whatsoever.*
  - h) Pass an interim order restraining the respondent No. 2 from giving any effect to the said resolutions so taken in the Board Meetings of the respondent No. 1 company after 01.04.2005 and subsequent to 03.05.2010 and 27.08.2010 in any manner whatsoever.*
  - i) Pass an interim order restraining the respondent No. 2 from obstructing your petitioners from entering the office premises of the respondent No. 1 company.*
  - j) Pass an interim order restraining the respondent No. 2 from obstructing your petitioners to have access and inspection of the books of accounts and other statutory books of the respondent No. 1 company.*
  - k) Pass an interim direction upon the respondent No. 2 to disclose all the books of accounts and the statutory books of the company to your petitioners and before this Hon'ble Board.*
  - l) Pass ad interim orders in terms of prayers (a) to (k) above.*
-

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

*C.P. No. 90 of 2011*

---

*m) Costs of and/or incidental to the proceedings to be paid by the respondent No. 2.*

*n) Such further order or orders be passed and/or direction or directions be given as this Hon'ble Board may deem fit and proper."*

**Factual Matrix:**

4. The petitioners have filed an application under Section 397, 398, 399, 402, 403, 404 and 406 of the erstwhile Companies Act, 1956, against the respondents.
  5. During the pendency of proceedings, two applications were filed by the petitioners. One, CA No. 256/(KB)2013, seeking recording the death of respondent No. 3 and also granting leave to amend the Company Petition. The abovementioned applications were heard and Orders were passed granting leave as sought for.
  6. The respondent No. 1 company is a private limited company having its registered office at Calcutta and owns a packaged drinking water plant in West Bengal.
  7. The petitioner No. 2 is the founder member/director of the respondent No. 1 company. The petitioner No. 1 and 3 are the directors of the respondent No. 1 company. The petitioners together hold more than 45% of the total shareholding of the respondent company.
  8. It is the claim of the petitioners in their petition that with a view to provide substantial business opportunities for the respondent No. 1 company, petitioners caused M/s. Canadian Crystalline Water Inc., Canada to enter into a licensing agreement with the petitioner No. 1
-

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

*C.P. No. 90 of 2011*

---

on 08.12.1999, whereunder the said overseas company granted licence to the respondent No. 1 company to use its trademark "Crystalline".

Copy of the said Licence Agreement dated 08.12.1999 is at Annexure A5, Pages No. 141 and 143 to the petition.

- 9.** It is the claim of the petitioner No. 3 that she mortgaged her valuable properties with the bank to provide respondent No. 1 company the finances required for the purpose of business. The details of mortgaged property have been described at Page No. 7, Para 7.4 of the petition.
- 10.** It is the claim of the petitioner that respondents No. 2 and 3 (since deceased) did not give any notice of any meeting concerned to the company to the petitioner from 01.04.2005 till 02.05.2010. The petitioners issued notice dated 23.03.2010, demanding true copies of records of the respondent No. 1 company. In response to that through of a letter dated 06.04.2010, the respondents No. 2 and 3 caused a notice for a meeting of the board on 03.05.2010, which is in Annexure A7 of the petition.
- 11.** The petitioners wrote to the respondents on 28.04.2010, demanding relevant documents in order to comprehend and discuss on the state of affairs about the respondent company. However, the respondent did not provide the same as sought for.
- 12.** The respondents No. 2 and 3 issued another notice dated 29.07.2010, for meeting of board of directors on 27.08.2010, with an agenda identical as mentioned in the notice for board meeting dated 03.05.2010. The petitioner issued another notice dated 23.08.2017, through their Advocate demanding relevant documents

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

*C.P. No. 90 of 2011*

---

as asked earlier. However, there is no response from the respondents No. 2 and 3, to this letter as well.

- 13.** Petitioners received another notice dated 07.09.2011, issued by respondent No. 1 company conveying a board meeting to be held on 09.09.2011 at 3:30 p.m. However, on the said date of the meeting, the respondents No. 2 and 3 were not present, when petitioners were present and were never informed whether the said meeting were cancelled or rescheduled.
- 14.** The petitioner No. 1 issued a letter dated 09.09.2011, to the respondent No. 1 company informing about the sequence of events which took place on 09.09.2011. Petitioner No. 1 sent this letter to the registered office of the company and factory premises of the respondent No. 1 company and the same came back with the endorsement "Refused".
- 15.** The petitioners claim that respondent No. 1 company had taken a loan from the West Bengal State Cooperative Agriculture and Rural Development Bank Limited wherein, petitioner No. 3 stood as a guarantor to such loan and had created equitable mortgage in respect of their land described at Page 12 of the petition.
- 16.** The said loan has been repaid by the respondent No. 1. When the petitioners approached the bank to return title deeds of the said mortgaged property, the petitioner No. 3 was informed that respondent No. 2 and 3 had taken the said titles with them. Till date, the title deeds have not been returned to the petitioner No. 3 in spite of the fact that properties were mortgaged by petitioner No. 3 in order to secure finances for the respondent No. 1 company and the loan has been repaid by the respondent company.

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

*C.P. No. 90 of 2011*

---

- 17.** The petitioners claim that respondents No. 2 and 3 mismanaging the company and forged signatures of the petitioners. Upon taking inspection of documents received from RoC, it was found that the respondent No. 2 and 3 had forged the signature of the petitioner No. 3 on the balance sheet of respondent No. 1 company in the Financial Year 2009-2010, as the petitioner could not have signed, as she had never attended the meeting where the accounts of the respondent No. 1 company was approved by the board of directors since there was no information to the petitioner No. 3 about the said board meeting. In any case, the petitioner No. 3 could not have attended as she was busy attending her ailing husband who was hospitalised at B M Birla Heart Institute during the relevant period. The husband of petitioner ultimately passed away on 09.09.2010.
- 18.** The petitioner further claims that respondents No. 2 and 3 illegally invited applications for allotment of further equity shares over and above authorised capital of Rs. 20 lacs which is fully paid up.
- 19.** The petitioner No. 3 claims that her signatures were forged and affixed on all the documents including annual report perpetrating fraud. The petitioners further claim that the respondent No. 2 and 3 have not paid the requisite licence fee to the said M/s. Canadian Crystalline Water Inc., Canada in terms of agreement dated 08.12.1999.
- 20.** Considering the misdeeds and mismanagement of the affairs of the company, this petition has been filed seeking reliefs mentioned above, in para 3 of this Order.

**Ld. Counsel for the Applicant:**

---



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

*C.P. No. 90 of 2011*

---

- 21.** The Ld. Counsel for the petitioner submits relying on the case law rendered in ***Mr. Tarlok Chand Khanna & Another Vs. Mr. Raj Kumar Kapoor & Others*** that notice of board meeting should have been made preferable by registered post whereas in this case the petitioners never received any notice regarding board meeting and therefore, were kept at dark on the state of affairs of the company.
- 22.** The petitioners also relied on the judgment passed by the Company Law Board in the case of ***V.S. Krishnan and Ors. Vs. Westfort Hi-Tech Hospital Limited and Ors.*** wherein direction was given that company will convene annual general meetings in accordance with law to transact several businesses which includes consideration of accounts, balance sheet and reports of the board of directors. Certain other directions were also given in that case for proper conduct of the affairs of the company.
- 23.** Ld. Counsel further submits that by not providing the accounts and the details asked for by the petitioners and/or conducting board meetings at the back of the petitioners and by not returning the title deeds of the property mortgaged by petitioner No. 3 for raising finance for respondent No. 1 company and by not paying the licence fee to M/s. Canadian Crystalline Water Inc., Canada the respondents have not only mismanaged the company but also acted in a manner oppressive to the interest of the petitioners and accordingly reliefs sought for may be granted.

**Reply filed by the Respondent No. 2:**

- 24.** In the absence of any Counsel(s) on behalf of the respondents, this Tribunal records the submissions made in reply to the petition by respondent No. 2. In reply, it has been stated that the petitioners
-

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

*C.P. No. 90 of 2011*

---

held 45.5% shares and it is not the case of the petitioners that the shares of the petitioners have been transferred illegally or otherwise. Till date, the shareholding pattern has not changed.

- 25.** In reply, it has been stated that allegations regarding absence of notice of general meetings during the period from 01.04.2005 to 02.05.2010 is false and frivolous as notices have been issued during the period from time to time. Even the petitioners admit in its petition that on three occasions i.e. 03.05.2010, 27.08.2010 and 09.09.2011, board meetings were convened and notices were issued and were received by the petitioners, but the petitioners chose not to attend under the pretext of that they did not receive documents relating to the state of affairs of the company. If the intention was to prevent the petitioners from attending board meetings, three consecutive notices would not have been issued for the board meetings. Thus, the petitioner has made false and incorrect statements on oath.
- 26.** The reply further states that the agreement between M/s. Canadian Crystalline Water Inc., Canada and the petitioner No. 1 Mr. Ramesh Agarwal was without any authorisation from the company, nevertheless the respondent No. 1 company paid licence fee.
- 27.** The reply further states that one Mr. Pradip Dey lodged a general diary being G.D.E. No. 598 dated 06.04.2010, thereby stating that on 06.04.2010, at about 6p.m. while he was returning from the registered office of the company he lost all the documents including company's notice book of board of directors, minutes, resolution book etc. and the petitioners were well aware of such facts.

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

*C.P. No. 90 of 2011*

---

- 28.** The reply states that petitioners did not respond to general meetings dated 03.05.2010, 27.08.2010 and 09.09.2011, basically in order to avoid repayment of bank loan after respondent No. 1 company received the ultimatum notice served by the West Bengal State Cooperative Bank Ltd.
- 29.** The reply further states the petitioners herein in connivance with each other through respondent No. 1 drew Rs. 35 lacs as loan from West Bengal State Cooperative and Rural Development Bank Ltd. in the year 2001. The respondent No. 2 finding no other alternative took loan from other companies and ultimately in order to save the respondent No. 1 company from being wound up, repaid entire loan as per the compromised settlement with the financial situation.
- 30.** The reply further states that respondents were compelled to pay all dues including Employees Provident Fund. The petitioners herein took no responsibility even though they are holding more than 45% share of the company. The petitioners being board of directors are trying to avoid the responsibilities of the day-to-day affairs of the company and also to avoid huge debt incurred to the other companies during their tenure and as such filed the instant fraudulent petition by suppressing material facts, to avoid their liabilities.
- 31.** The reply further states that this Tribunal may immediately direct the petitioners to participate in day-to-day affairs of the company and pay all the debts incurred due to losses of the respondent No. 1 and repay the loan amount of the respondent No. 2 which he took to pay back the loan of the respondent No. company to the interest at the rate of 18% per annum.
-

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

*C.P. No. 90 of 2011*

---

**32.** The reply further states that the petition is a clear process of abuse of the Court and should be dismissed in limine with an exemplary cost.

**Rejoinder to the Reply:**

**33.** The petitioner filed a rejoinder to the reply. In rejoinder, it has been stated that petitioners along with respondent No. 2 and Mr. Pyabhudayal Goenka constituted the board of the respondent No. 1 company. Mr. Pyabhudayal Goenka passed away on 30.04.2012.

**34.** The respondent No. 1 company thereafter not inducted any other director in the board. In rejoinder petitioner claims that respondent No. 1 company has never had any valid board meeting since 30.04.2012. Respondent No. 2 in acting as individual has prevented other directors to run the respondent No. 1 company.

**35.** It is claimed in the rejoinder that the respondent No. 1 company failed to call for any annual general meeting or board meeting since April, 2012 clearly in the breach of the Companies Act. The rejoinder further claims that it is a concocted story that various books of accounts as also other books including the minutes books were lost and respondents have filed a false General Diary with the Police Station.

**36.** The rejoinder further states that respondent No. 2 colluded Mr. Prabhudayal Goenka and conspired to send false intimations of meetings. One such intimation was sent on 07.09.2011, of the board meeting on 09.09.2011. On arrival, the petitioner found that respondent No. 2 and Mr. Pyabhudayal Goenka were not present in the premises. No explanation was provided by respondent No. 2 as to why no board meeting was conducted on 09.09.2011.

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

*C.P. No. 90 of 2011*

---

- 37.** In the rejoinder, it is denied that the petitioner along with M/s. Canadian Crystalline Water Inc., Canada withdrew a loan of Rs. 35 lacs in the West Bengal State Cooperative and Rural Development Bank Ltd. in the year 2001.
- 38.** The petitioners also denied that their liability towards workers under Employees Provident Fund or any other analogous enactments which are liabilities of respondent No. 1 company.
- 39.** The petitioners have also denied that they never entered into an agreement with M/s. Canadian Crystalline Water Inc., Canada without authorisation from the board of the respondent No. 1 company. The respondent No. 2 having in control of the said office of respondent No. 1 and also the document of respondent No. 1 had suppressed the same and now, making baseless allegations.
- 40.** The petitioners in rejoinder also submit that they were unaware of any demands of banks in respect of loans taken by respondent No. 1.

**Analysis and Findings:**

- 41.** It is not in dispute that the petitioners hold 45% of the shareholding in the respondent No. 1 company. The main case of the petitioners is:
- a)** The respondents No. 2 and 3 did not allow the petitioners to participate in the management and operations of the company. No board meetings were ever conducted from 2005 to 2010 and if at all conducted it is at the back of the petitioners.

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

*C.P. No. 90 of 2011*

---

- b)** The title deeds of the property pledged by the petitioner No. 3 for arranging funds for respondent No. 1 company have not been returned by the respondents.
  - c)** The accounts of the company were never furnished to the petitioners.
- 42.** The petition filed under Section 241 of the Companies Act alleging oppression and mismanagement of the company by the respondents. The Act does not define the words “oppression” and “mismanagement”, therefore, unfair abuse of power by the person in-charge of affairs of the company which is prejudicial to public interest or in a manner prejudicial or oppressive to any member of the company. In this context we proceed to examine the allegations levelled by the petitioners.
- 43.** On the allegations relating to board meeting/AGM we find that the respondents have claimed that notices have been issued from time to time whereas, the petitioners have claimed that they have never received notices for such meetings. The respondents have not enclosed any proof of service of such notices to the petitioners in respect of meetings conducted. Be that as it may, at least on three occasions in 2010/2011 notices issued by the respondents to the petitioners in connection with board meetings have been acknowledged by the petitioner.
- 44.** It is the claim of the petitioners that they wanted certain documents relating to respondent No. 1 company so that the same can be discussed at the time of board meetings. However, they claim that they never received such documents asked for. Thus, on two occasions they chose not to attend without the receipt of such

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

*C.P. No. 90 of 2011*

---

documents. On the third occasion, the petitioners claim that on the appointed date and time they visited the venue scheduled for the board meeting but found none for the respondent and therefore, had to return without having the meeting.

- 45.** We have taken note of the plea taken in reply to the petition, where it has been stated as major shareholders of the respondent No. 1 company, the petitioners themselves could have convened the general meeting. It is claimed by the respondents that petitioners did not do so in order to avoid repayment of bank loan taken by the respondent No. 1 company. In reply, the respondent seeks directions to petitioners to attend all the general body meetings and also to participate in the day-to-day affairs of the company. This shows that respondents are very keen that the petitioners take lead in convening meeting and attend such meetings and also participate the day-to-day operations of the company. When that being the case, we find interim relief sought by the petitioners are not required to be granted as they can convene meeting of the board/shareholders and seek whatever information they wanted with regard to operations of the company and take appropriate actions if they find any wrongdoing by the respondents, in accordance with law.
- 46.** We are of the view that at least prima facie case should be made out against the respondents in mismanagement of the company. In the given case, there are allegations and counter allegations by both the parties with regard to convening of board meetings and notice for such meetings etc. However, as rightly pointed out by respondents, petitioner being shareholder with 45% shares could have called for extraordinary general meeting in terms of Section 100 of the Companies Act, if petitioners were indeed interested and keen to

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

*C.P. No. 90 of 2011*

---

participate in managing the affairs of the company. We also note that this petition has been filed in 2011 with reference to meetings held from the year 2005. While we are not inclined to get into the aspect of time bar, the delay and latches on the part of petitioner in filing this petition is writ large enough to state that law and equity come to the rescue of those who are vigilant about their rights and not to those who sleep over their rights for years together. We also note that apart from the allegations of conducting meeting at the back of petitioners and affixing the signatures of petitioners No. 3 in financials by respondent No. 2 and 3, no allegations of syphoning of funds or any other mala fide action on the part of respondents have been alleged. The affixing of signature fraudulently of petitioner No. 3 in financials has been strongly denied by respondents. In any event such allegations relating to forged signature can not be dealt by this Tribunal.

**47.** Thus, no case made out for restraining respondent No. 2 for acting as director of the respondent No. 1 company. No case is also made out on appointing an independent director or administrator as sought for. In the petitioners' own interest, they can convene the meeting immediately and can take note and understand the state of affairs of the company and accordingly, take action major shareholder of the company. Therefore, temporary injunction restraining the respondent No. 2 from acquiring and/or selling any property of the company is not warranted, at this stage.

**48.** In terms of Rule 11 of NCLT Rules, we direct to conduct extraordinary general meeting of the company on or before 30.06.2024, after complying with statutory provisions relating to the meeting. We direct petitioners and the respondent No. 1 to



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

*C.P. No. 90 of 2011*

---

participate in such meeting and respondent is directed to provide the financial accounts of the company along with other relevant statutory documents/returns. If the petitioners indeed find any gross violation/mismanagement based on participation, examination of documents and discussion in the said meeting they can file a separate petition before us seeking appropriate reliefs.

- 49.** With regard to issue relating to title deeds of the property claimed to have been pledged by the petitioner No. 1 for arranging funds for respondent No.1 company, we direct the respondent No. 2 to handover the original title deeds of the property as apparently it has served its purpose and the loans taken by pledging those properties by the respondent No. 1 company have been paid.
- 50.** The claim of the respondent No. 2, if any, against the petitioners in respect of the loan taken by the company, which is already taken by the petitioners can be dealt with separately and that should not stop the respondent No. 2 in handing over original title deeds. Accordingly, we direct the respondent No. 2 to handover the original title deeds of the property pledged by the petitioner No. 3 for arranging funds for the respondent No. 1 company, to the petitioner No. 3.
- 51.** The petition under Section 241 of the Companies Act is maintainable only when the affairs of the company have been or being conducted in a manner prejudicial to public interest or in a manner prejudicial or oppressive to him or any other member or members in a manner prejudicial to the interest of the company.
- 52.** In this case petitioners have not been able to make out a case that the affairs of the company have been conducted in the manner
-

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

*C.P. No. 90 of 2011*

---

mentioned above. In fact, respondents in their reply have asked for meeting and participation of the petitioner in the said meeting, respondents have also sought direction to the petitioner to participate in day-to-day management of the affairs of the company.

- 53.** However, in the interest of justice above directions have been issued in terms of Section 242 (2)(m) of the Companies Act, 2013, read with Rule 11 of NCLT Rules.
- 54.** Accordingly, this petition being **Company Petition (Companies Act) No. 90 of 2011 is disposed of.**
- 55.** Certified copy of this order, if applied for with the Registry be supplied to the parties in compliance with all requisite formalities.

**D. Arvind**  
**Member (Technical)**

**Bidisha Banerjee**  
**Member (Judicial)**

**Signed on this, the 26<sup>th</sup> day of April, 2024.**

*PH(PS)*