

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-I)
KOLKATA**

C.P. No. 199 /KB/2023

*A petition under section 97(1) of the Companies Act, 2013 read with Rule 11 and
Rule 74 of the National Company Law Tribunal Rules, 2016;*

In the matter of:

Shivbhumi Projects Private Limited, a company incorporated under the Companies Act, 1956 and having registered office at 1st Floor, 33 M.M. Feeder Road, LP-34/70 Kolkata -700057

.....Petitioner

And

In the matter of:

1. Bela Properties Private Limited, a Company incorporated under the Companies Act, 1956 and is an existing company within the meaning of the Companies Act, 2013 and having its registered office at 17 Balmukund Macker Road, Room No. 14 Kolkata – 700007

... Respondent No. 1

2. Manoj Kumar Saraf, residing at 1C , Hai Paul Lane, Duff Street, Beadon Street, Kolkata 700006

... Respondent No. 2

3. Shilpa Bhansali, residing at 424/1 G.T. Road, Kapur Gali, Howrah 711101

... Respondent No. 3

And

4. The Registrar of Companies, West Bengal, Government of India, Ministry of Corporate Affairs, Nizam Palace, 2nd M.S.O Building, 2nd Floor, 234/4, Acharya Jagadish Chandra Bose Road, Kolkata-700020.

...Respondent No. 4

Date of Pronouncement: 26.04.2024

Coram:

Rohit Kapoor : Member (Judicial)
Balraj Joshi : Member (Technical)

Appearances:

For the Petitioners : 1. Mr. Kuldip Mallik, Advocate
2. Md Shahnawaz, PCS
For Respondent No. 1 to 3 : Mr. Shiven Ray, Advocate

ORDER

Per: Rohit Kapoor, Member (Judicial)

1. Ld. Counsel on both sides present.
2. This is an application under Section 97 of the Companies Act, filed by Shivbhumi Projects Private Limited - Petitioner against the Respondents Bela Properties Private Limited & Ors., The share capital of the company is Rs.3,00,00,000/- and the paid-up share capital of the company is Rs.2,87,53,500/-. The Respondent No.1 Company was incorporated as private limited company on 07/07/1999.
3. The Respondent No.1 is sought to be directed to call an Annual General meeting of the Respondent No. 1 Company for the Financial Year 2021-2022 within three months from the date passing the order by this Tribunal. The petitioner is praying for calling of the Annual General Meeting of the company under section 97(1) of the Companies Act, 2013 read with rules 11 and 74 of the NCLT Rules 2016, for the Financial Years ending 31st March, 2022.
4. It is submitted that Respondent Nos 2 and 3 are Directors of Respondent No.1 Company and the Respondent No. 4 is the Statutory Authority
5. It is contended that the Respondent No.1 did not hold AGM for the financial year 2021-2022 on or before September 30, 2022 and has prayed for directions to the Respondent No.1 Company for hold the AGM of the

company. A copy of the petition already stands served on the Registrar of Companies, West Bengal.

6. The Petitioner states that the last AGM of Respondent No. 1 Company was held on 30.11.2021 in the year 2021 for adoption of Audited Financial Statement for the ended March 31, 2021.
7. It is submitted that as per Section 96 of the Companies Act, 2013, the Respondent No.1 Company was required to hold the Annual General Meeting for the year 2021-2022 on or before September 30, 2022, but the same could not be done as the accounts were not ready.
8. Ld. Counsel for the Respondent No.1 submitted at bar today that the Audited of the Financial Statements of the Respondent No.1 Company for the year ended March 31, 2022, were completed on 10/02/2023 and that the said Audited Financial Statements of the Respondent No.1 Company for the year ended March 31, 2022 were also approved by the board of the Respondent No.1 Company on 10/02/2023.
9. Ld. Counsel also submitted that Audited Financial Statement of the Respondent No.1 have now been finalized and there is no impediment in holding the AGM of the Company for the said financial years.
10. We have heard the Ld. Counsel appearing for the petitioner and the Ld. Counsel appearing for the respondent company. The Ld. Counsel for the respondent does not have any objection to the application being allowed. However we also note that the reason given for not holding the AGM as stipulated in Section 96 are not satisfactory and therefore by not holding the AGM as required, the company has made itself liable for punishment under section 99. The company shall therefore pay a penalty of Rs. 50000/- for violating the provisions of Section 96, as provided in Section 99 of the Companies Act 2016.
6. Subject to the above, we hereby give the following directions in the exercise of the powers conferred on this tribunal under section 97(1) of the Companies Act, 2013 read with Rule 11 and Rule 74 of the National Company Law Tribunal Rules, 2016:

- (a) The Respondent company namely **Bela Properties Private Limited**, shall hold Annual General Meeting within 45 days from the date of this order, to finalise and approve the annual returns and financial papers in accordance with the procedure prescribed in the provisions of Companies Act,2013 and Rules made therein. This meeting shall be considered as an Annual General Meeting for the purposes of the Companies Act 2013.
- (b) The Respondent Company is directed to give 21 days' clear notice in advance, either in writing or through electronic mode in the manner prescribed every member of the Company, legal representative of any deceased member or the assignee of an insolvent member, the auditors of the Company and every director of the Company in accordance with section 101 of the Companies Act, 2013, informing therein the place, date, day and the hour of the meeting shall contain a statement of the business to be transacted at such meeting.

11. The **C.P. No. 199/KB/2023** shall stand disposed of accordingly.
12. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
13. Registry is also directed to send a copy of this order to the Registrar of Companies, West Bengal, Kolkata.
14. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
15. File be consigned to the records.

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)

Order signed on 26th day of April, 2024

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