

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

**IA(COMPANIES.ACT)/178(KB)2023
IN
CP/36(KB)2005**

*An application under Sections 397, 398, 402, 406 and 11A and 209 of the Companies Act,
1956 and Section 247 and 242 of the Companies Act, 2013*

In the matter of:

Diamond Commerce Limited, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at 1 & 2, Old Court House Corner, Kolkata – 700001 in the State of West Bengal.

And

In the matter of:

1. Om Prakash Tantia, residing at 4, Sarat Chatterjee Avenue, Kolkata – 700029.
2. Madhusudan Tantia, residing at 4, Sarat Chatterjee Avenue, Kolkata – 700029.
3. Tulika Devi Tantia, residing at 4, Sarat Chatterjee Avenue, Kolkata – 700029.
4. J.P. Tibrewala, residing at 57113, Ballygunge Circular Road, Kolkata – 700019.

... .. Petitioners

Versus

1. Diamond Commerce Limited, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at 1 & 2, Old Court House Corner, Kolkata – 700001 in the State of West Bengal.
2. Arun Kumar Tantia, residing at 4, Sarat Chatterjee Avenue, Kolkata – 700029.
3. D.K. Chaturvedi, residing at 177/9, Belilious Road, Howrah – 711101.
4. P.S. Gupta, residing at 7N, Riveria, Mall Road, Dekhi – 110007.
5. L.K. Parashar, residing at 26, Motilal Chatterjee Lane, Botanical Garden, Howrah – 700103.
6. Uttam Bose, residing at 12A, Beliaghata Road, Kolkata – 700015.
7. Laxmi Devi Tantia, residing at 4, Sarat Chatterjee Avenue, Kolkata – 700029.
8. Siddharth Tantia Family Trust, through its trustee A.K. Tantia, 4, Sarat Chatterjee Avenue, Kolkata – 700029.

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9. Shaswat Tantia Family Trust, thorough its Trustee A.K. Tantia, 4, Sarat Chatterjee Avenue, Kolkata – 700029.

... .. Respondents

10. BESCO Limited, Poonam, 512, Russel Street, Kolkata.

... .. Proforma Respondent

And

In the matter of:

D.N. Chaturvedi

... .. Applicant

Versus

1. Om Prakash Tantia, residing at 4, Sarat Chatterjee Avenue, Kolkata – 700029.

2. Madhusudan Tantia, residing at 4, Sarat Chatterjee Avenue, Kolkata – 700029.

... .. Respondents

Date of Pronouncement of Order: 10th April, 2024

CORAM:

SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)

SHRI D. ARVIND, HON'BLE MEMBER (TECHNICAL)

Appearance (via video conferencing/physically)

Mr. Ratnanko Banerjee, Sr. Adv.] For the Petitioner

Ms. Swapna Chowbey, Adv.]

Mr. Rajib Mullick, Adv.]

Ms. Ayantika Saha, Adv.]

Mr. Dhirendranath Sharma, Adv.] For Applicant

Mr. Sushovit Dutt Majumder, Adv.]

Ms. Mini Agarwal, Adv.]

O R D E R

Per: Bidisha Banerjee, Member (Judicial)

1. The Court congregated through a hybrid mode.

2. Parties were heard at length.

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3. This application has been filed to seek the following reliefs:
- a. The order dated September 15, 2023 passed in I.A. (Companies Act) No.99/KB/2023 be recalled and/or set aside;
 - b. Till disposal of this application, operation of the order dated September 15, 2023 be stayed;
 - c. Injunction restraining the applicants in I.A. No.99 of 2023 from giving any effect or further effect to or taking any steps or further steps on the basis of the order dated September 15, 2023;
 - d. If any steps have been taken on the basis of the order dated 15.09.2023, including filing of the forms with the Registrar of Companies, such steps be reversed and all the documents in connection therewith be quashed, cancelled and set aside;
 - e. Ad interim orders in terms of prayers above;
 - f. Costs of and incidental to this application be paid by this respondents;
 - g. Such further or other order and/or orders be passed and direction or directions be given as this Hon'ble Tribunal may deem fit and proper.
4. The order, recalling whereof has been sought for, reads as under:

“Appearance (via video conferencing/physically)

Mr. S.K. Tiwari, Adv.

] For the Petitioner

Ms. Neha Somani, Pr. CS

] For the Respondent

ORDER

1. *Ld. Counsel for the Petitioner present. Ld. Authorized Representative for the Respondent present.*
2. *Due to paucity of time, this matter could not be taken up for hearing.*
3. *List this matter on 07.11.2023.”*

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5. It is alleged that the order dated 15th September, 2023 was passed by this Tribunal without providing the applicant herein an opportunity to file an affidavit to the I.A. No.99 of 2023 filed by the Petitioner in the main Company Petition.
6. We fail to understand what harm the order would cause to any of the parties.
7. The present IA being speculative and misconceived one is dismissed with costs of Rs.25,000/- (Rupees Twenty-five thousand only) to be paid to the Prime Minister's National Relief Fund.

D. Arvind
Member (Technical)

Bidisha Banerjee
Member (Judicial)

This Order signed on this, the 10th day of April, 2024.

Sayon [Steno]