

## NATIONAL COMPANY LAW TRIBUNAL

राष्ट्रीय कंपनी विधि अधिकरण

CUTTACK BENCH

कटक खंडपीठ

ORDER OF THE HEARING ON 24<sup>th</sup> APRIL, 2024, 10:30 A.M.

CP No. 7/CB/2024, IA (Companies Act) No. 29/CB/2024

**Coram: 1. Hon'ble Member (Judicial), Shri P. Mohan Raj**  
**2. Hon'ble Member (Technical), Shri Kaushalendra Kumar Singh**

Name of the Company	Debasish Mahapatra -Vs- The Great Escape Amusement (P). Ltd. & Ors.
Under Section	241-242

**Hearing through: VC and Physical (Hybrid) Mode**

For Petitioner (s)

Mr. Saswat K. Acharya, Adv.  
 Mr. Abhishek Dash, Adv.  
 Mr. Ayush Khandelwal, Adv.

For Respondent (s)

**ORDER****IA (Companies Act) No. 29/CB/2024:**

This is an application filed under Rule 11 of the NCLT Rules, 2016 for urgent listing of CP No. 7/CB/2024. CP No. 7/CB/2024, is on Board today. Accordingly, IA (Companies Act) No. 29/CB/2024, is Allowed and Disposed of.

**CP.No.7/CB/2024:**

This company petition is filed under section 241 and 242 of the Companies Act 2013 for oppression and mismanagement. The petitioner is a life time managing director of the 1<sup>st</sup> respondent company having 7.5% shares, filed this petition. It is submitted that the 2<sup>nd</sup> respondent is having 90% shares and 3<sup>rd</sup> respondent is having 2.5% shares, taking advantage of having majority shares the respondents acted in the manner prejudicial to the rights of petitioner.

Mr. S.K. Acharya, Advocate made his submission on behalf of Advocate on record Mr. Abhishek Dash, who is also present.

On the petitioner side primarily questioned the validity of the meeting requisition (*Annexure 4 page 55 of the petition*) dated 23.01.2024 submitted by the 3<sup>rd</sup>

Sd

Sd

Page 1 of 3.

Vishal

respondent/addressed to the petitioner, because he has only 2.5% shares in the 1<sup>st</sup> respondent company, so he is not entitled/competent to submit the requisition as provided under section 100(2)(a) of the Companies Act 2013. There the minimum requirement is one-tenth of share capital.

The counsel argued that in pursuance of the invalid requisition dated 23.01.2024 (Annexure 4) the fourth respondent issued a notice dated 08.03.2024 (*Annexure 6 page 62 of petition*) convening the meeting on 29.03.2024, the counsel brought to the notice as per section 100(4) of the Companies Act 2013 in case the requisition is not considered by the Board within 45 days the requisitionists themselves shall give notice convening the meeting, but here the requisition is submitted by 3<sup>rd</sup> respondent, meeting notice dated 8.03.2024 is issued by the 4<sup>th</sup> respondent hence the meeting notice dated 8.03.2024 is also invalid and not in accordance with law.

The counsel represented that as stated in the notice dated 08.03.2024 no meeting was held on 29.03.2024, it was postponed the notice postponing the meeting was issued after filed this petition hence the petitioner could not file the subsequent correspondence in this regard.

Further it is argued that even the EGM notice dated 08.03.2024 (*Annexure 6*) is not valid because there is no 21 clear days between the date of notice and the date of proposed meeting date. As per secretarial standard 1.2.6 (*Annexure 7 page 68 of the petition*) the date on which the notice sent and date of meeting shall be excluded from calculating 21 clear days as mentioned in section 101 (1) of the companies Act 2013. In the event of sending notice by post or courier additional two days to be added.

The counsel submitted that the respondents in pursuance of invalid requisition of 3<sup>rd</sup> respondent dated 23.01.2024 (Annexure 4) and the 4<sup>th</sup> respondent sent invalid notice dated 08.03.2024 (Annexure 6) and the respondents are trying to convene the meeting to appoint respondent No. 4 Mrs. Bidyathula Mahapatra as director of 1<sup>st</sup> respondent company, if the respondents are allowed to proceed with the meeting, it will cause irreparable loss to the petitioner hence sought an interim injunction restraining them to proceed with notice dated 08.03.2024, however on the petitioner side not sure whether meeting was already held or not.

Further when it is specifically asked whether the requisition dated 23.01.2024 referred in the notice dated 08.03.2024 is pertaining to requisition submitted by

Sd

Sd

the 3<sup>rd</sup> respondent alone or is there any other requisition submitted by the other shareholders of the company? For this specific query the counsel ascertained that there is only one requisition dated 23.01.2024 which was submitted by the 3<sup>rd</sup> respondent, this alone refereed in the notice dated 08.03.2024. At this juncture we thought prima facie case is made out and inclined to grant an interim injunction, accordingly dictated and ordered notice to the respondents.

While preparing/correcting the daily order we noticed that the Director of the 2<sup>nd</sup> respondent i.e., Konark Aquatics and Export Pvt. Ltd., Bidyathula Mahapatra who holds 90% shares also submitted requisition/special notice on dated 23.01.2023 (Annexure 6 page 65 of the petition) to convene EGM. This fact is inconsistent with the submission made on the petitioner side as referred in previous paragraph. To get clarification in this regard registry is directed to list the matter on the next sitting day i.e. 29.04.2024 and send e-mail notice to the advocate on record informing listing the matter on 29.04.2024.

Sd

**Kaushalendra Kumar Singh**  
**Member (Technical)**

Sd

**P. Mohan Raj**  
**Member (Judicial)**