

IN THE NATIONAL COMPANY LAW TRIBUNAL

AHMEDABAD

COURT - 2

ITEM No.303

CONT.A/13(AHM)2023 in CP(IB)/74(AHM)2023

Order under Section 425 of Co. Act, 2013

IN THE MATTER OF:

Imdadali M Momin & Ors

.....Applicant

V/s

Anis Amin Malik & Ors

.....Respondent

Order delivered on: 25/04/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

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**DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)**

-sd-

**CHITRA HANKARE
MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)
Contempt Application No. 13 of 2023**

In

CP(IB) No. 74 of 2023

(Filed under Section 425 of the Companies Act, 2013 and
Contempt of Courts Act, 1971)

IN THE MATTER OF:

Imdadali M Monin & Ors.

... Applicants

Vs.

Anis Amin Malik & Ors.

... Respondents

Order pronounced on 25.04.2024

Coram:

**MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)**

MEMO OF PARTIES

1. Imdadali M Momin
2. Abasali Mohmmadau Momin
3. Abidali Mohmedali Momin
4. Mohsinali Mumtazali Momin
5. Mumtazali Jamalbhai Momin
6. Shabbirali Jamalbhai Momin Shelia

All of the above having address

61, Jafari Tower,
B/h. Tagor Hall, Kochrab Paldi,
Ahmedabad-380006

... Applicants/Financial Creditors

Versus

1. Anis Amin Malik
2. Abidali Daudbahi Takodi
3. Arif Mohammed Saiyad
4. Hasankhan Samsheer Khan Pathan
5. Adil Amen Malik
6. Jumma Iqbal Pothiawala

All of the above being the directors of the
Ori. Respondent / Corporate Debtor

Having office address at:

Plot No.3538 Phase-4, GIDC Industrial Estate
Chhatral, Gandhinagar-382729

... Respondents

Present:

For the Applicants : Mr. Arjun Sheth, Adv. A.w Ms. Rhea Sevak,
Adv. 7 Mr. Rajiv Chawla, Adv.

For the Respondents : Mr. Ravi Pahwa, Adv. A.w Ms. Pragati
Bansal, Adv.

JUDGEMENT

1. This application is filed for contempt of Court u/s 425 of the companies Act, 2013. The applicants are original petitioners i.e., Financial Creditors while respondents are directors of the Corporate Debtor by name Pellucid Lifesciences Pvt. Ltd. The applicants have filed CP(IB) 74 of 2023 & IA 1060 of 2023 against the Corporate Debtor u/s 7 and section 60(5) of the IBC, 2016 respectively.
2. The applicants stated that the respondents have made false statement during the hearing dated 09.10.2023 in order to avoid granting of any interim relief to the applicants, thereby committing Contempt of Courts for obstruction of justice. On 09.10.2023, the petitioner pressed for interim relief. At that time, respondents appeared through their counsel made false statement that reply is ready and same is gone for affirmation and they will file it during the course of the day, hence, mater was adjourned. On receiving reply from the Corporate Debtor and on perusing the reply of Corporate Debtor in IA 1060 of 2023, it was found that affidavit of Corporate Debtor was affirmed on 07.10.2023 i.e., prior to hearing date, thus, the respondents have

deliberately withhold affidavit in reply and made false statement on 07.10.2023. Therefore, it is clear case of Civil or Criminal Contempt of Courts, hence, prayed for initiating appropriate Civil and or Contempt proceedings against the respondents and punish the respondents.

3. No reply has been filed by respondents. Heard both the counsels for applicants and respondents.
4. The applicants only mentioned that it is filed u/s 425 of the Companies Act which only provides powers of Tribunal in respect of its own contempt. The applicants did not mentioned any section of Contempt of Courts Act. Moreover, applicants have mentioned Civil or Criminal Contempt. They themselves are not sure whether it is Civil or Criminal Contempt. The applicant relied upon the Judgement of Hon'ble Supreme Court in Narmada Bachao Andolan and Ors. Vs. State of Madhya Pradesh and Ors. (AIR 2011 SC 1980).
5. Learned Counsel for the respondents pointed out that no such statement was recorded in daily order dated 09.10.2023 that they have stated that it is to be affirmed. Order only mentioned that respondents sought time to file

reply. The allegations regarding Contempt of Courts are about false statement made by the respondents which is not supported by any evidence. The exact words uttered by the respondents are not supported by any evidence. Moreover, statement of respondents alleged to have been said is that the affidavit has gone for affirmation which was already affirmed is not contemptuous statement. Applicants have failed to show that any contempt of Courts is made by the respondents.

6. In view of the above, we pass following order:

ORDER

Contempt Application No. 13 of 2023 in CP (IB) No.74 of 2023 is rejected.

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DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

CHITRA HANKARE
MEMBER (JUDICIAL)