

NATIONAL COMPANY LAW TRIBUNAL
COURT ROOM NO. 1,
MUMBAI BENCH

Item No. 30

RST.A CA/8/2023 (NEW CA) in TP/80(MB)2014

CORAM:

SH. PRABHAT KUMAR JUSTICE VIRENDRASINGH BISHT (Retd.)
HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **17.10.2023**

NAME OF THE PARTIES: **SRIKAR RAGHURAM IYER**

Section 241(1) of the Companies Act, 2013 & Rule 11

ORDER

RST.A CA/8/2023

- 1) Mr. Nausher Kohli, Ld. Counsel for the Applicant is present.
- 2) The present Interlocutory Application has been filed by the Applicant, **Srikar Raghuram Iyer**, who is Power of Attorney holder of the Petitioners, seeking restoration of the **Transfer Company Petition bearing TP No. 80 of 2014**, for proper adjudication of the case.
- 3) Applicant submits that the matter was listed on Board on various occasions (i.e. on 25.02.2022, 22.04.2022, 23.06.2022, 11.08.2022, 22.10.2022, 20.12.2022, 28.02.2023, 02.05.2023, 07.07.2023); however, could not be taken up due to paucity of time.

- 4) It is also submitted that the Applicant herein was not keeping in good health and was suffering from acute illness *inter alia* Acute Coronary Syndrome and thereafter, the Applicant had to undergo Coronary Angioplasty in September, 2018. Thereafter, again in June 2022, the Applicant had to undergo another Coronary Angioplasty. Even after the surgery, the Applicant was still not keeping in good health; hence, in July 2023, he had to undergo one more Coronary Angiography and the Applicant was advised to take complete rest until he completely recovers and was kept under supervision and observation.
- 5) Thereafter, the Applicant was in the process of changing the Advocates from the erstwhile Advocates on record; however, due to ill health, he could not transfer the papers from the erstwhile Advocates to the present one. Therefore, in this process, the matter could be attended neither by the Applicant nor appropriate instructions could be provided to the erstwhile Advocates.
- 6) Thereafter, the Company Petition was listed on Board on 29.08.2023, with a direction to the Registry to serve a Notice to the Petitioners to appear. The relevant para of the said order is quoted below for the convenience.

“None appeared for either side. Registry is directed to issue notice to the Petitioner. In case, none appears on behalf of Petitioner on the next date of hearing, matter will be dismissed for non-prosecution. List this matter on 11.09.2023, for hearing/dissmissal”.

7) Thereafter, the matter was listed on Board on 11.09.2023, on which date, this Bench passed the following Order.

“None present for the petitioner. Adv. Rohit Yadav i/b Bhavin Bhatia appeared for the intervenor. On perusal of the record it is seen that petitioner is not present on various occasions. It reveals that petitioner does not want to prosecute the matter. Accordingly, TCP 80/2013 is dismissed for non-prosecution. CA Nos. 265/2017, 515/2017 are also disposed of having become infructuous. File be closed and consigned to record”.

8) Applicant lastly submits that the Operational Creditor has a strong case on merit and is likely to succeed and thus prays for setting aside the Order of this Bench dt. 11.09.2023 cited *supra*.

9) Hence the present Interlocutory Application has been filed for restoration of the main Company Petition along with the orders passed therein including the order dt. 09.10.2014, passed by the Company Law Board.

10) Having considered the submissions, on perusal of averments made in the present Interlocutory Application and also taking note of the facts and circumstances, this Bench is satisfied and feels it appropriate to allow the present Restoration Application bearing No. 8 of 2023, thereby restoring the main Transfer Company Petition bearing TP No. 80 of 2014.

11) It is to be noted that the main Transfer Company Petition bearing TP No. 80 of 2014, is now being ordered to be restored on the file of **Court Room No. 1,**

National Company Law Tribunal, Mumbai Bench; hence, Registry shall expedite necessary steps regarding restoration of the main Company Petition.

- 12) The Registry is directed to issue notice to all the Respondents who are arrayed as Parties to the present Company Petition, clearly intimating the next date of hearing and to place on record Compliance Report, well before the adjourned date.
- 13) In addition to the Notice ordered by the Court, Petitioners are directed to issue notice to all the Respondents who are arrayed as Parties to the present Company Petition, clearly intimating the next date of hearing, by all available means (i.e. Speed Post, E-mail, etc.) and to place on record Affidavit of Service, enclosing therewith proof of Service of Notice to all the Respondents well before the adjourned date.
- 14) Registry is further directed to list the main Transfer Company Petition bearing TP No. 80 of 2014, on Board on **29.11.2023**, for further consideration and hearing.
- 15) With the aforesaid observation and direction, the Restoration Application bearing No. 8 of 2023, is disposed of as Allowed. There would however be no order as to costs.

Sd/-

**PRABHAT KUMAR
MEMBER (TECHNICAL)**

Sd/-

**JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)**