

NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

109. R.A. 1/2022

In

C.P. 349/2018

CORAM: MS. LAKSHMI GURUNG, MEMBER (J)
SH. CHARANJEET SINGH GULATI, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **16.04.2024**

NAME OF THE PARTIES: Wadhwa Estates and Developers (India) Pvt. Ltd.

V/s.

Makwana Properties Pvt Ltd. & Others.

Appearance

For Applicant : Senior Counsel Adv. Mustafa Doctor a/w Adv. Zoheb
Khatri, Adv. Nidhi Singh i/b INDIALAW LLP

For Respondent: Adv. Arvind Giriraj a/w. Adv. Darshit Dave, Adv. Ativ
Patel i/b. AVP Partners

SECTION 241-242 OF COMPANIES ACT, 2013

ORDER

Hearing Through: Virtually and Physical (Hybrid) Mode

R.A. 1/2022

This is an application filed by the applicant M/s. Wadhwa Estates and Developers (India) Pvt. Ltd (Org. Petitioner) for restoration of the main company petition bearing no. 349 of 2018 which was dismissed for non-prosecution on 31st January 2022.

The applicant submits that prior to outbreak of the pandemic, the matter was last listed on 19th February 2020 and adjourned to 13th April 2020. Meanwhile, somewhere in the last week of February 2020 the erstwhile lawyer Ms. Rati Lodha owing to her health issues returned the papers to the Applicants above named. To the knowledge of the Applicants, the erstwhile lawyer i.e. Lodha Legal has permanently closed their operation thereafter. Therefore Applicant was constrained to look for another lawyer. However, due to surge of corona pandemic and lockdowns the Applicant's search for a new lawyer came to standstill. Further, the concerned Inhouse Advocate of applicant went through huge personal problems due to ill health of her father in law. On 31.01.2022, the matter was listed on board but due to aforesaid reasons none appeared in the matter so the matter was dismissed for non-prosecution.

Ld. counsel for the respondent submits that the reasons given for the restoration are prior to the onset of corona Pandemic and do not appear to be genuine. Further it is submitted that the same the same is also not supported by the affidavit of the applicant.

Having gone through the reasons, it is mentioned in the application that in the last February 2020 the erstwhile lawyer had health issues due to which the papers of the case were returned. It is a matter of fact that from March 2020 there was surge of carona cases which took the shape of world wide pandemic due to which even the judicial functioning was disturbed. Considering all above the Hon'ble Supreme Court in suo motu writ petition no. 3 of 2020 had granted exclusion of time in filing the appeal/application/petition etc. Therefore, we are satisfied with the reasons given in the application till 2021 but applicant should have been more vigilant in prosecuting the matter. We are inclined to restore the Company Petition subject to cost of **Rs. 25,000/-** payable to the Consolidated Fund of India through Bharat Kosh.

I.A. is **allowed** and stands **disposed of** in above terms.

Upon query about the status of the interim direction given vide order dated 26.04.2018 about the general meetings, shareholding pattern and the third party rights over the assets of the company, Ld. counsel for the respondent seeks to file affidavit giving details. Let the same be done within two weeks.

List the C.P. on **04.06.2024**.

Sd/-
CHARANJEET SINGH GULATI
Member (Technical)
---Rajeev---

Sd/-
LAKSHMI GURUNG
Member (Judicial)