

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

Item No. 38

IA 51/2024 in CP 761/2017

CORAM:

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

ORDER SHEET OF THE HEARING ON **26.04.2024**

NAME OF THE PARTIES: **STARLIGHT REAL ESTATE (ASCOT)**
 MAURITIUS LTD & ORS V/s AUGUSTUS
 AVANI LAND DEVELOPERS PVT LTD

Section 241(1)-242(4) of the Companies Act, 2013

ORDER

IA 51/2024 in CP 761/2017

- 1) Mr. Nausher Kohli, Ld. Counsel for the Petitioner and Ms. Seema Kolwadkar, FCS for Respondents are present.
- 2) Authorised Representative for the Respondents again seeks some time to proceed further in the matter. Record reveals that the Respondents are taking too much time contending that they have filed an Application and the same is on Diary Number and has not yet been numbered by the Registry.
- 3) Further, the Objections of the Respondents are that an interim relief cannot be granted if an Interlocutory Application is pending for decision, as per the decision of the Hon'ble Supreme Court. Admittedly, there is no Interlocutory Application pending before this Bench as yet and the

Respondents are continuously taking adjournments on that Ground. Respondents till date has not filed and placed on record Affidavit in Reply in the present matter for which purpose time was already sought by them.

- 4) Authorised Representative of the Respondents submits that this Tribunal does not have power to direct the inspection; but the Central Government can do so. However, this Bench clarified the fact vide its order dt. 08.04.2024, wherein this Bench held as under:

“After reading the above Section 94(3) of the Companies Act, 2013, which provides for inspection of the records by the Members, does not require direction from any Authority and this Bench had directed the Respondent to allow the inspection of the records. In that view of the matter, Respondent shall allow the inspection of the statutory record which is permissible under the Companies Act to the members of a company”.

- 5) The defiance of the order dt. **08.04.2024** is apparent on the face; accordingly, **this Bench consider it appropriate to issue a Notice against Respondents**, in terms of Section 425 of the Companies Act, 2013 r/w Rule 11 of the NCLT, Rules and section 12 of Contempt of Court Act, 1972.
- 6) Stand over to **07.06.2024**, for further consideration and hearing.
- 7) Registry is directed to serve a copy of this Order along with the Show Cause Notice upon **Respondents** who has not complied with the order of this

Bench dt. 08.04.2024, till date, and not allowing the Court to proceed further in the matter.

- 8) In addition to the above direction, Petitioner herein is also directed to serve a copy of this Order along with the Show Cause Notice upon **Respondents** for their compliance and shall file and place on record Affidavit of service with regard to the same.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)

Sd/-

JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)

Vedant Kedare

NATIONAL COMPANY LAW TRIBUNAL

COURT ROOM NO. 1,

MUMBAI BENCH

Dated 08.12.2023.

To,

- i. Augustus Avani Land Developers Pvt. Ltd,**
15 & 16, Makers Chambers VI,
Nariman Point, Mumbai – 400 021.
- ii. Neeraj Kumar Pandey,**
Flat No. 505, Building No. 2, Solitaire I, Poonam Garden,
Mira Road (East), Thane – 401 107 and also at 8th Floor,
3A, Shakespeare Sarani, Kolkata 700 071
- iii. Rajendra Gajanan Deshpande,**
8/D, Gokuldas Devaji Wadi, Gamdevi Road,
Mumbai – 400 007.
- iv. Rajen Krishan Sikka,**
F-6/11, Salunke Vihar, Army Welfare,
Co-op Hsg. Society Ltd., Pune – 411 022

Subject- *Show Cause Notice*

- 1) The present Company Petition has been filed by the Petitioners against Respondents, seeking certain directions.
- 2) Authorised Representative for the Respondents again seeks some time to proceed further in the matter. Record reveals that the Respondents are taking

too much time contending that they have filed an Application and the same is on Diary Number and has not yet been numbered by the Registry.

3) Further, the Objections of the Respondents are that an interim relief cannot be granted if an Interlocutory Application is pending for decision, as per the decision of the Hon'ble Supreme Court. Admittedly, there is no Interlocutory Application pending before this Bench as yet and the Respondents are continuously taking adjournments on that Ground. Respondents till date has not filed and placed on record Affidavit in Reply to the present in the present matter for which purpose time has already sought by them.

4) Authorised Representative of the Respondents submits that this Tribunal does not have power to direct the inspection; but the Central Government can do so. However, this Bench clarified the fact vide its order dt. 08.04.2024, wherein this Bench held as under:

“After reading the above Section 94(3) of the Companies Act, 2013, which provides for inspection of the records by the Members, does not require direction from any Authority and this Bench had directed the Respondent to allow the inspection of the records. In that view of the matter, Respondent shall allow the inspection of the statutory record which is permissible under the Companies Act to the members of a company”.

- 5) The defiance of the order dt. **08.04.2024** is apparent on the face; accordingly, **this Bench consider it appropriate to issue a Notice against Respondents**, in terms of Section 425 of the Companies Act, 2013 r/w Rule 11 of the NCLT, Rules and section 12 of Contempt of Court Act, 1972.
- 6) Hence, this Bench deems it fit and appropriate to initiate contempt proceedings u/s 12 of the Contempt of Court Act, 1971, for disobedience to order dated 08.04.2024 passed by this Bench thereby directing Respondents, to file and place on record Affidavit thereby showing reasons for not allowing this Bench to proceed further in the matter.
- 7) Section 425 of Companies Act, 2013 provides that this Tribunal shall have same power in respect of contempt of themselves as High Court has under the provision of Contempt of Court Act, 1971. Section 2 (c) of the Contempt of Court Act, 1971 defines Civil Contempt to mean “*wilful disobedience to any judgment, decree, direction, order, writ or other process of court or wilful breach of an undertaking given to a court.*” Section 12(1) of the Contempt of Court Act, 1971 provides that a Contempt of court may be punished with simple imprisonment for terms which may extend to six months or with fine which may extend to Rs.2000/-, or both. Section 12(4) also makes every person responsible for the conduct of business of the Company.
- 8) In terms of Section 12 of Contempt of Court Act, this Bench affords you an opportunity to make your defence to the aforesaid charges within four weeks

of receipt of show Cause Notice along with the evidence relied upon by you
in respect of this Bench.

Sd/-

**PRABHAT KUMAR
MEMBER (TECHNICAL)**

Sd/-

**JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)**

Vedant Kedare