



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2015

WEB COPY

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Com Apel(MD)No.1 of 2014

and

M.P(MD)No.1 of 2014

- 1.Selvaraaaj Tex Private Limited
204/6, Dindugul Main Road,
Vilangudi, Madurai-625 018,
Tamil Nadu.
 - 2.Mr.K.P.S.Manoharan
 - 3.Mr.K.P.S.Sivakumar
 - 4.Mr.K.P.S.Muniswaran
 - 5.Mrs.M.Muthumari
 - 6.M/s.Laxmi Selvaraaaj Tex Private Limited
Represented by its Managing Director,
K.P.S.Manoharan,
Son of K.P.Subbiah,
9/7B, Dindigul Road,
Vilangudi,
Madurai-625 018.
- ... Petitioners

Vs.

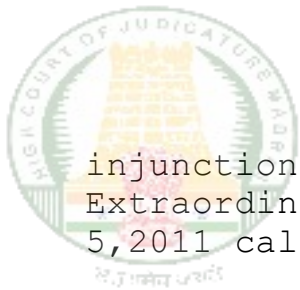
- 1.Mr.K.P.S.Selvaraj
 - 2.Mrs.S.Indra Vijayalakshmi
- ... Respondents

Company Appeal is filed under Section 10 F of the Companies Act, 1956 to set aside the order dated 09.10.2014 passed in C.A.No.198/2012 in C.P.No.57 of 2011 on the file of Company Law Board.

For Petitioners : Mr.S.M.S.Johnny Basha
For Respondents : Mr.P.Ganapathi Subramanian

ORDER

The respondents filed Company Petition in C.P.No.57 of 2011 before the Company Law Board for various reliefs including for declaration that the purported Extraordinary General Meeting of the Company called by the appellants 2 to 5 proposed to be held on August 5, 2011 is invalid and consequently injunct permanently, the holding of such Extraordinary General Meeting or the passing of any resolutions there on August 5, 2011 or any adjourned meeting. The Respondents also claimed interim



injunction restraining the convening of the purported Extraordinary General Meeting of the Company, dated August 5, 2011 called by Respondent Nos. 2 to 5.

2. Pending company petition, no interim injunction was granted. Therefore, the said Extraordinary General Meeting was held and certain decisions were taken including removing the respondents from the post of Directors of Company via., Selvaraj Textiles Private Limited.

3. In the circumstances, the respondents filed C.A.No.198 of 2012 in C.P.No.57 of 2011 for amendment of Company Petition to include the relief mentioned in Schedule-B. The respondents sought for this amendment in view of subsequent development. The respondents also sought to implead M/s.Laxmi Selvaraj Tex Private Limited/6th appellant herein. The appellants opposed the said application.

4. According to the appellants, the proposed respondent/6th appellant cannot be implead as party in the main petition as they are not proper and necessary party to the main Company Petition.

5. The Company Law Board considered all the materials on record and allowed the application for amendment and directed the respondents to carry out the amendment and served copies to all the parties including 6th appellant herein. Against the said order dated 09.10.2014, the appellants filed the present appeal.

6. The learned counsel for the appellants contended that the learned Judge of Company Law Board has not properly appreciated the pleadings of appellants. By amendment, new cause of action cannot be introduced. The order of amendment is contrary to the Regulation 46 of the Company Law Board Regulation, 1991. The Company Law Board ought to have seen that the amendment can be ordered only to rectify the defect or error and for the purpose of determining the real issue raised. The learned counsel for the appellants reiterated the averments made before the Company Law Board and in the grounds of appeal.

7. Per contra, the learned counsel appearing for the respondents argued that no new cause of action is introduced and 6th appellant is necessary and proper party. The impugned order is passed as per the Company Law Board Regulations 1991 and there is no infirmity in the order. He also reiterated the various averments made in the application filed before the



8. Heard the learned counsel appearing for the appellants and the respondents.

9. The learned counsel for the appellant argued that by allowing the amendment new cause of action is being introduced. The Company Law Board is not right in allowing the amendment when the amendment is passed on mis-joinder of cause of action by introducing total new inconsistency case. The Company Law Board erred in allowing the amendment without any pleadings as required under Order VI Rule 6 of Civil Procedure Code and also evidence.

10. All these contentions are untenable and unsustainable. The respondents are originally prayed for interim injunction restraining the appellant from convening Extraordinary General Meeting. The Company Law Board did not grant any interim injunction. The Extraordinary General Meeting was held as scheduled. The respondents were removed from post of Directors. The contentions of the respondents is such removal is illegal and contrary to family agreement. Further, the respondents have made allegations regarding misappropriation of funds and seeking various reliefs against appellant including the 6th appellant. Therefore, by the impugned order, the Company Law Board held that 6th respondent is necessary party and allowed the C.A.No.198 of 2012 and ordered amendment. The Company Law board has considered entire materials on record and passed orders. Further, amendment sought for is based on the subsequent development after filing of company petition.

11. I find there is no reason warranting interference by this Court, the Company Appeal is liable to be dismissed. Accordingly, the Company Appeal is dismissed. No costs. Consequently, connected M.P (MD) NO.1 of 2014 is dismissed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

The Registrar,
Company Law Board,
Chennai Bench, Chennai

+1cc to Mr.S.M.S. Johnny Basha, Advocate Sr.No.18873
+1cc to Mr.P.Ganapathi Subramanian, Advocate Sr.No.19555
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