

IN THE HIGH COURT OF BOMBAY AT GOA

COMPANY APPLICATION NO. 65 OF 2016

IN

COMPANY APPEAL NO. 3 OF 2009

BLUE COAST HOTELS LTD., (EARLIER
KNOWN AS BLUE COAST HOTELS AND
RESORTS LTD.),

... Applicant

Versus

MORGAN VENTURES LIMITED.,

... Respondent

Mr. Rahul Srivastava with Mr. Shivan Desai, Ms. Neha Mittal
and Mr. Jatin Ramaiya, Advocates for the Applicant.

Coram:- F. M. REIS, J.

Date:- 21st October, 2016

P.C.

This is an application on behalf of respondent no. 1 under Rule 9 of the Company Court Rules 1959 read with Section 5 of the Limitation Act.

2. It is the contention of the applicant that the appellants have preferred a Company Appeal under Section 10 of the Companies Act 1956, aggrieved by the order dated 14.10.2008 passed by the Company Law Board Principal Bench, New Delhi arising out of the company petition no 196 of 2007 and in Company Application no 88/2008 It is further contended that the appeal was partly allowed by order dated 04.12.2015. It is further pointed out that the respondent no.1 was tremendously occupied

due to dishonest conduct and major criminal collusion and conspiracy by the secured lenders whereby prestigious property of the company i.e. Hotel Park Hyatt Goa Resort & Spa was being auctioned. It is further contended that the respondents were successful in the litigation which was pending before the High Court, Mumbai vide order dated 23.03.2016 whereby the sale auction was set aside. Thereafter the lender IFCI and the auction purchaser ITC preferred a Special Leave Petition before the Apex Court which are registered as 10215-17/2016 and 10196-98/2016 and arguments/hearings was in progress in the said Petitions. As the matter was listed recently on 20.09.2016 and had now been adjourned to 22.11.2016, accordingly the applicant have filed the present applications in order to review the final Judgement and Order dated 4.12.2015 passed by this Court. It is further pointed out that for this reason alone, there was delay in filing the application. It is further contended that the appellants have even at the time of passing of the order dated 04.12.2015, had not disclosed the correct and true facts which have been concealed from this Court, which led the cause of delay. It is also pointed out that no prejudice would occasion to the appellants in case the delay is condoned and the review is allowed as no steps have been taken by the appellants. As such, respondent no. 1 filed an application to review the order passed by this Court along with the application for condonation of delay.

3. Learned Counsel appearing for the Applicants submits that on account of parallel litigation which was pending and which proceeded upto the Apex Court, the Respondent no.1 was depressed which led to the delay in filing the application. Learned counsel further pointed out that the application is supported by an Affidavit and there is no reason to disbelieve the allegations made therein. Learned Counsel further pointed out that though there are no powers for review under the Companies Act or Rules, nevertheless, Rule 9 of the Companies Court Rule of 1959 provide internal jurisdiction to be exercised by the Court to meet the needs of justice. It is as such pointed out that the application be allowed.

4. I have considered the contention of the learned Counsel. I have also gone through the records. The delay in filing the present application is of 265 days. The order passed by this Court only remands the matter to the Company Law Board to decide the preliminary objection raised by the respondents afresh. The delay has not been satisfactorily explained nor any particulars furnished for such inordinate delay. Considering the vagueness in the application, there is no satisfactory explanation for the delay in filing the application and, in any event, the question of exercising inherent jurisdiction in terms of Rule 9 of the said Rules of 1959 would not at all arise. The parties have acted upon

the orders under review and, as such, the question of granting any relief to the respondent no. 1 based on the allegations made in the application would not at all arise.

5. As such there is no merit in the above application which can accordingly rejected.

F. M. REIS, J.

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