

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2016

Coram

THE HONOURABLE **MR. JUSTICE RAJIV SHAKDHER**

C.P.No.81 of 2016

1. N.Sankaran
2. S.Ravi
3. S.Iyyappan
4. Ms.S.Krishnaveni

.. Petitioners

V.

1. M/s.Konar Farms Private Limited,
11/K, St.Thomas Road,
Palayamkottai,
Tirunelveli, Tamil Nadu 627 002.

2. The Registrar of Companies,
No.26, Haddows Road,
Chennai-600 006.

.. Respondents

Company Petition filed under Section 560(6) of the Companies Act, 1956 read with Rule 92 of the Company Court Rules, 1959, prays (a) to restore M/s.Konar Farms Private Limited having its Corporate Identity Number as U01119TN1998PTC040158 and having its Registered Office at 11/K, ST.Thomas Road, Palayamkottai, Tirunelveli District, Tamil Nadu-627 002 under the provisions of Section 560(6) of the Companies Act, 1956.

For Petitioner : Ms.Hema Srinivasan, for
Mr.N.V.Prakash

For Respondent : Mr.K.Ramana Murthy

ORDER

1. This is a petition filed under Section Section 560(6) of the Companies Act, 1956 read with Rule 92 of the Company Court Rules, 1959. By this petition, the prayer made is to restore the name of M/s.Konar Farms Private Limited (in short, 'KFPL') on the Register of Companies.

2. This petition came up for hearing in Court on 21.7.2016, whereupon, Mr.K.Ramachandra Murthy entered appearance on behalf of the Registrar of Companies (ROC). Accordingly three weeks time was granted to him, to file a reply.

3. The ROC has filed its reply, wherein, it has been briefly indicated that, since, KFPL had not filed its balance sheets and its annual returns, after following the due procedure of law, KFPL's name was struck off from Register of Companies, *albeit*, with effect from 5.4.2008. It is also asserted in the very same reply, that this fact was

published in the Gazette of India of 5th-11th April, 2011, in page No.2564, against Sl.No.2849.

4. Learned counsel for the petitioners has relied upon the assertions made in the petition, to seek the relief, to which, I have adverted herein above.

5. It is asserted by the learned counsel for the petitioner that KFPL was incorporated, in the first instance on 20.3.1998. It is further submitted that it has an authorised share capital of Rs.5 lakhs, which is divided into 50,000 equity shares, of a face value of Rs.10/- each. It is further stated that the issued, subscribed and paid up share capital of KFPL is also equivalent to Rs.5 lakhs, divided into Rs.50,0000 equity shares, of face value of Rs.10/- each.

6. Learned counsel for the petitioners asserts that KFPL has not issued any preference shares.

7. The equity shareholders of KFPL is comprises of the four petitioners, who are before this Court; the details *qua* them are set forth hereafter:

i) petitioner No.1: Mr.N.Sankaran, holds 25% of the equity stake, comprising of 12500 shares of Rs.10/- each;

ii) petitioner No.2: Mr.S.Ravi, holds 25% of the equity stake, comprising of 12500 shares of Rs.10/- each;

iii) petitioner No.3: S.Iyyappan, holds 25% of the equity stake, comprising of 12500 shares of Rs.10/- each; and

iv) lastly, petitioner No.4: Ms.S.Krishnaveni, holds 25% of the equity stake, comprising of 12500 shares of Rs.10/- each;

8. Pertinently, it is submitted that on 22.4.1998, petitioner No.1 i.e. Mr.Sankaran acquired the land, morefully described in the document which is filed at page 23 of the typed set of documents, from one, Dr.Maragathavalli on behalf of KFPL. It is stated that the said land admeasures 3.79 acres, and is situated in Rajagopalapuram village, Palayamkottai taluk, Tirunelveli District.

9. The petitioners concede that right from inception i.e. incorporation, there was failure on their part in not filing balance sheets and annual returns of KFPL. The petitioners, also concede, that annual general meetings were not held as required for financial years, viz., 2001-02, 2002-03 and 2003-04, within the time limit provided

under Section 166 read with Section 210 of the Companies Act, 1956.

10. The petitioners now assert that they will take corrective measures, and that, the land acquired on behalf of 'KFPL' would be developed as a farm and used for cultivation purpose. It is further asserted that the petitioners propose to construct three ponds on each acre of the land to harvest the rainfall.

11. It is stated that if the relief as sought for, is not granted, the aforementioned land would be rendered fallow. In sum, it is the submission of the petitioners that they are determined to carrying on the business, for which, KFPL was actually incorporated in the first instance.

12. I heard the learned counsel for the parties.

13. Clearly, the petitioners were remiss in not complying with the provisions of the Companies Act, 1956 inasmuch as they did not file balance sheets and annual returns of the KFPL.

RAJIV SHAKDHER,J.

suk

14. As a matter of fact, annual general meetings of KFPL, were admittedly, not held between 2001-02 and 2003-04. It is, in these circumstances, that the ROC issued a notice of default, which was received by the petitioners, concededly, on 26.07.2005.

15. Having regard to the fact that the ROC has not pointed out any other infirmities save and except the factum of non-filing of statutory records, I am inclined to allow the petition subject to the following:

i) The petitioners will file all statutory records, such as annual returns, balance sheets, etc., along with requisite fee and fine, if any payable, with the ROC, within 12 weeks from today.

ii) The petitioners will also deposit the cost of Rs.10,000/- with the Juvenile Justice Fund, within a period of 10 days from the date of receipt of a copy of this order. Proof of payment of cost, will be filed in Court.

16. List the matter on 08.09.2016, for reporting compliance.

Suk

24.8.2016
C.P.No.81 of 2016