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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPEAL NO.52 OF 2016
IN
COMPANY PETITION NO.70 OF 2016

WITH
COMPANY APPLICATION NO.56 OF 2016
IN
COMPANY APPEAL NO.52 OF 2016
IN
COMPANY PETITION NO.70 OF 2016

Vivek V. Makar	...Appellant
V/s.	
Oriental Rubber Industries Ltd. & Ors.	...Respondents

Mr.Zal Andhyarujina i/b M/s.Thakore Jariwala & Associates for the Appellant.

Mr.Mustafa Doctor, Senior Counsel with Murtaza Kachwalla and Mr.Aashdin Chivalwala for the Respondent Nos.1 to 4 and 6 to 9.

CORAM : R.D. DHANUKA, J.
DATE : 4TH JANUARY, 2017.

P.C. :-

1. Not on board. By consent of parties, Company Appeal No.52 of 2016 is taken on board and is heard finally.
2. By this appeal filed under section 10-F of the Companies Act, 1956, the appellant has impugned the order dated 20th May, 2016 passed by the Company Law Board, Mumbai Bench rejecting

the application for interim reliefs.

3. A perusal of paragraph 22 of the impugned order indicates that the Company Law Board has observed that the facts of this case did not merit providing any inspection or discovery to the petitioner before reply has come from the respondents. At the same time, it was observed that on seeing the pleadings of the reply, if the Company Law Board comes to the opinion that further documents are required to decide the issues in this case, then the Company Law Board would consider that point at the relevant point of time.

4. A perusal of the order also indicates that the Company Law Board has made various final conclusion on merits at the stage of deciding the application for interim reliefs and for an application for discovery and inspection. In my view, at this stage, the Company Law Board could not have made any such observations on merits of the matter.

5. There is no dispute that the respondents have already filed the reply to the petition filed before the Company Law Board and placed reliance on some of the documents. In my view, since the Company Law Board has kept the issue open whether the appellant would be entitled to inspection of the documents at the relevant point of time and in view of the fact that the respondents have already filed affidavit in reply to the company petition, this company appeal can be

disposed of by the following order :-

a). The Company Law Board shall decide the application for interim reliefs filed by the petitioner and also the application for inspection and discovery of documents before hearing the company petition finally.

b). The impugned order dated 20th May, 2016 is accordingly set aside. The application for interim reliefs is restored to file. The learned Company Law Board shall decide the application for inspection and discovery of documents as well as for interim reliefs before passing any final order on the company petition on its own merits. The Company Law Board shall decide the matter in accordance with law and without being influenced by the observations and conclusions drawn in the impugned order dated 20th May, 2016.

6. In view of disposal of Company Appeal No.52 of 2016, Company Application No.56 of 2016 does not survive and is accordingly dismissed. No order as to costs.

(R.D. DHANUKA, J.)