

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

COMPANY APPEAL NO. 6 OF 2014

MKJ Enterprises Limited & Ors.

...Appellants

Versus

**Bhansali Engineering Polymers Limited &
Ors.**

...Respondents

Mr. Pranav Sampat, a/w Ms. Arundathi Venkatraman, i/b M/s. Khaitan & Co., for the Appellants.

Mr. Gaurav Mehta, i/b M/s. Hooseini Doctor & Co., for the Respondents No. 1 to 3.

Mr. Phiroz Colabawalla, i/b Zaiwalla & Co., for the Respondents No. 5 and 7.

Mr. Anish Karande, i/b M/s. Dastur Dadhich and Kalambi, for the Respondents No. 8 to 10.

CORAM : R.D. DHANUKA, J.

DATE : 14 March 2017

ORDER :

1. Mr. Sampat, learned Counsel for the Appellants on

instructions seeks liberty to withdraw this Company Appeal unconditionally. Mr. Mehta, learned Counsel appearing for the Respondents No. 1 to 3, Mr. Colabawalla, learned Counsel for the Respondents No. 5 and 7, Mr. Karande, learned Counsel for the Respondents No. 8 to 10 have no objection, if the Appeal is allowed to be withdrawn. The learned Counsel for the Respondents vehemently urged that this Company Appeal is abuse of process of law. The Company Appeal cannot be allowed to be withdrawn without imposing exemplary cost upon the Appellants.

2. The learned Counsel for the Respondents have drawn my attention to some of the paragraphs of the impugned order dated 24th September 2013, more particularly paragraphs 34, 53 and 54. My attention is also invited to the order passed by this Court on 29th April 2014 making various observations against the Appellants to the effect that the Appellants had previously attempted to obtain publicity from the orders passed by the Company Law Board. This Court deprecated such conduct on the part of the Appellants and restrained them from making any public comments about the orders passed by the Company Law Board.

3. Perusal of the impugned order, clearly indicates that the Company Law Board has rendered a finding that the Company Petition was filed by the Appellants herein with an ulterior motive or putting pressure upon Respondents No. 2 to sell his shareholding and hand over

the control of the Respondent No. 1 Company to Mr. Mahendra Kumar Jalan. The Appellants group was responsible for making defamatory statement through news items in the media and as a result whereof, the value of the shares of the Respondent No. 1 had declined. The Appellants group took advantage of the situation and purchased additional 1,50,59,625 shares in the Company and thereby increased their shareholdings from 14.89 percent to 23.79 percent.

4. The Company Law Board also took cognizance of the fact that the Respondent No. 1 Company *inter alia* consists of two retired IAS Officers. One of the Directors i.e. the Respondent No. 5 has held various senior position at both the Union and State Government levels. The other Director i.e. the Respondent No. 6 is a former IAS Officer, who has held key positions with the Government of Andhra Pradesh and the Union Government. The Respondent No. 7 is practicing solicitor and senior partner of the Solicitor firm M/s. Mulla and Mulla & Cragies Blunt & Caroe. The said Director also held Directorship on the Boards of various public limited companies including TATA Group of Companies. The Company Law Board has observed that even these Directors have not been spared from the irresponsible, baseless and unsubstantiated false charges that had been made by the Appellants in the Company Petition. Finding is rendered by the Company Law Board that the said charges relating to lack of corporate governance is malicious, defamatory, false and baseless. The Appellants have not made out any case for passing any order for investigation of the affairs of the

Respondent No. 1 company.

5. The Appellants have challenged the said order passed by the Company Law Board by filing this Appeal under Section 10 (F) of the Companies Act, 1956. This Appeal has been vehemently pursued by the Appellants. Large number of hearing have taken place. Several Counsel of this Court had been engaged by the Respondents to defend this Company Appeal. In my view, in the facts summarised aforesaid, the Appellants cannot be allowed to withdraw this Company Appeal unconditionally and without imposing exemplary cost. Various findings rendered and observations made about conduct of the Appellants in the impugned order have attained finality, in view of Appellants at this stage, withdrawing the Appeal.

6. The learned Counsel appearing for the Respondents No. 1 to 3 states that for defending such frivolous proceedings, the Respondents No. 1 to 3 have spent more than 50,00,000/- and thus, the Appellants shall be directed to pay exemplary costs while granting permission to withdraw this Company Appeal.

7. Since the entire conduct of the Appellants is found blameworthy, malicious and defamatory, in my view, interest of justice would be met, if the Appellants are permitted to withdraw this Appeal on payment of costs of Rs. 2,00,000/- collectively to Respondents No. 1 to 3 within two weeks from today without fail.

8. Company Appeal No. 6 of 2014 is dismissed as withdrawn upon the Appellants paying costs of Rs. 2,00,000/- (Rupees Two Lakhs) to Respondents No. 1 to 3 collectively within two weeks from today.

[R.D. DHANUKA, J.]