

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.137 of 2020

- 1 WAYNE BURT PETRO CHEMICALS PVT LTD
REP BY ITS SENIOR MANAGER-FINANCE
V.K. SIVASUBRAMANIAN
A10 SIPCOT INDUSTRIAL PARK
IRUNGATTUKOTTAI
SRIPERUMBUDUR TALUK
CHENNAI - 105.
 - 2 WAYNE BURT PTE LTD.
REP BY ITS AUTHORISED REPRESENTATIVE
V.K. SIVASUBRAMANIAN
HAVING ITS REGISTERED OFFICE
AT 47, CHANGI NORTH CRESCENT
CHANGI, SINGAPORE - 738 346 ... APPELLANTS/PETITIONER
- Vs.
- 1 THE REGISTRAR OF COMPANIES
MINISTRY OF CORPORATE AFFAIRS
SHASTRI BHAVAN, II FLOOR
NO.26 HADDOWS ROAD EGMORE
CHENNAI - 6.
 - 2 M/S.CETEX PETRO CHEMICALS LTD.
REP BY ITS MANAGING DIRECTOR
MR.SIVAGNANAM GOVINDASAMY ILANAHAI
HAVING ITS REGISTERED OFFICE
AT MANALI, CHENNAI - 68.
 - 3 SACRED BANYAN INFRA PVT LTD.
REP BY ITS DIRECTOR,
MR.BADRINARAYAN CHOUDARY
STUDIO-N, SY NO.70, NARNE NAGAR
BESIDE LANCO HILLS
HYDERABAD - 500 049.

4 SIVAGNANAM GOVINDASAMY ILANAHAI
5 BADRINARAYAN CHOUDHARY
6 VASUDEVAN RAGHAVAN

.. Respondents

PRAYER: Appeal under Clause 15 of the Letters Patent against the order dated 8.1.2020 passed by the learned Single Judge in W.P.SR.No.162309 of 2019.

Prayer in WP.SR.No.162309 of 2019 : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Registrar of companies, 1st respondent and respondents 3 to 6 to permit the petitioner to induct four more directors in the Board of Directors of the 2nd respondent company Cetex Petro Chemical, in the Board to have representation in proportionate to the equity share holding of the petitioner holding 47.68% to the respondents holding 47.82% as per the Mandatory provisions of Section 160 and 161 (1) of the Indian Companies Act, 2013 and the rules framed thereunder till then forbearing the respondents 3 to 6 from in any manner conducting and the annual general meeting on 31.12.2019.

For Appellants : Ms.P.Bagyalakshmi

For Respondents : Mr.Adeesh Anto
for 2nd respondent

M/s.S.V.Pravin Rathinam
and Mr.B.Surendhar
for 3rd respondent

JUDGMENT

(Delivered by SUBRAMONIUM PRASAD,J.)

The appeal is directed against the order dated 8.1.2020 passed by the learned Single Judge declining to entertain the writ petition on the ground that an alternate remedy under the Companies Act, 2013 is available, inasmuch as the appellants/petitioners ought to have approached the National Company Law Tribunal for redressing the relief as prayed for.

2. Ms.P.Bagyalakshmi, learned counsel appearing for the appellants submits that they have already approached National Company Law Tribunal by filing an appropriate application, but unfortunately despite the fact that matters are listed before the Tribunal, the same are not being taken up for want of

adequate Members in the National Company Law Tribunal. It is contended that the learned Judge/Member is sitting in the First Bench of the National Company Law Tribunal and, therefore, he is not able to take up the matters which are listed before the Bench II of the National Company Law Tribunal.

3. We do not propose to interfere with the orders of the learned Single Judge on the issue of maintainability. However, we hope and trust that the National Company Law Tribunal would entertain the application and pass orders within a period of two weeks from today, so that the matter can be proceeded ahead.

With these observations, the writ appeal is disposed of. No costs. Consequently C.M.P.No.1950 of 2020 is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To:

THE REGISTRAR OF COMPANIES
MINISTRY OF CORPORATE AFFAIRS
SHASTRI BHAVAN, II FLOOR
NO.26 HADDOWS ROAD EGMORE
CHENNAI - 6.

AKM/11.02.2020/3P-2C /

W.A.No.137 of 2020

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