

Court No. 2

27.09.2021

(Sl. 72)

(S. Banerjee/BP)

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction**

WPA 559 of 2021

Haldibari Tea Manufacturing LLP & Anr.

Vs.

Union of India & Ors.

(Via Video Conference)

Mr. Partha Ghosh

Mr. Arijit Ghosh

....for the petitioners

Mr. Sudipto Kumar Mazumdar

Mr. Ashok Ghosh

....for the Union of India

Mr. Ajay Singhal

Mr. Sandip Kumar Singh

....for the respondent nos. 4 and 5

The writ petitioner is aggrieved by an alleged illegal deletion of his name from the records of the Registrar of Companies, as partner of Haldibari Tea Manufacturing LLP. It is submitted that a resolution was adopted by the partners on 20th July, 2020 without notice to the petitioners. It is also submitted on the said day one of the partners was not residing in India. The respondents deny the same.

Apart from violation of the agreement for LLP, violation of the provisions of the LLP Act, 2008 is also asserted.

Proceeding were taken out by the petitioners before the Commercial Court at Siliguri, being

Misc. Arbitration Case No. 6 of 2021 praying for restoration of his name in the record of Registrar of Companies, which was dismissed.

Respondent nos. 4 and 5 moved application under Section 9 of the Arbitration and Conciliation Act, 1996 before the District Judge which has since been allowed directing that the possession of the private respondent nos. 4 and 5 of the assets of the tea garden shall not be disturbed by the petitioners. An appeal carried therefrom before this court in FMAT 3 of 2021 by the writ petitioners herein has been allowed.

The respondent nos. 4 and 5 filed special leave petition before the Hon'ble Supreme Court being SLP No. 12719-12720 of 2021.

By an order dated 20th September, 2021 the Hon'ble Supreme Court referred the parties to arbitration before an agreed and named arbitrator.

In that view of the matter this court is of the view that the prayers in the writ petition cannot be entertained.

It is, however, made clear that the deletion of the name of the petitioners from the records of the Registrar of Companies shall abide by the result of the arbitration proceeding.

The parties may seek appropriate remedies under the 1996 Act.

With the aforesaid direction the writ application stands disposed of.

There shall be no order as to costs.

Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Rajasekhar Mantha, J.)