

(118) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3266-2023 (O&M)

Date of Decision:20.01.2023

M/s Green Ventrue Securities Management Pvt. Ltd. and others

... Petitioners

Vs.

M/s Exclusive Leasing and Finance Limited

... Respondent

CORAM : HON'BLE MR. JUSTICE SUDHIR MITTAL

Present : Mr. Vivek Lamba, Advocate for the petitioners.

SUDHIR MITTAL, J. (Oral)

The petitioners are a company and its Directors against whom a complaint under Section 138 of the Negotiable Instrument Act, 1881, has been filed by the respondent which is also a company.

The petitioners were summoned and the trial is in progress. Meanwhile, it appears that the management of the respondent has changed hands on account of sale. Thus, an application was filed by the petitioners seeking dismissal of the complaint on the ground that the authorized representative of the complainant has lost his mandate. The complaint cannot be pursued by him unless and until a fresh resolution is passed in his favour by the new management.

The application has been dismissed by the trial Court on the ground that the contention can be considered at the time of the final decision of the complaint and not earlier.

Learned counsel for the petitioner has argued that the authorized representative of the complainant-company does not have the mandate to prosecute the complaint as there is no resolution in his favour by the new management. Thus, the complaint deserves to be dismissed and that the trial Court was in error in dismissing the application.

The complaint is by a company which is an entity distinct from its share holders and directors. An earlier resolution was passed by the company

authorizing the representative thereof to prosecute the complaint. The company is still in existence and even though, the management has changed hands, it cannot be said that the complaint has become not maintainable and deserves to be dismissed. At best, it can be said that the authorized representative does not possess the mandate to prosecute the complaint but the same would not entail dismissal of the complaint. The result thereof would be examined at the time of final decision and trial Court was justified in holding so.

In view of the above, this petition is dismissed being devoid of any merit.

20.01.2023
rajeev

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No