



C.M.A.No.970 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.970 of 2014

1.Dr.K.Narayanaswamy
2.Pushpa

... Appellants

Vs.

1.Golden Rexines (India) Pvt. Ltd.
2.K.Thangaraj
3.T.Balasundarambal
4.K.Shanthakumar
5.S.Usha Rani
6.B.Mathavi
7.M.Balu
8.Rajalakshmi
9.Ramasamy
10.Sigappiammal
11.K.Saravanakumar

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 10-F of the Companies Act, 1956, to set aside the order dated 18.11.2013 made by the Company Law Board in C.P.No.36 of 2012 in so far as directing the closure of the company petition and thereby restore the petition, direct hearing of the same on merits.

For Appellants : Mr.Sundararajan
Senior Counsel
for M/s.S.R.Raghunathan
For Respondents : Mr.G.Rajkumar for R1 to R3



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R4 to R11 – No Appearance

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J U D G M E N T

This appeal has been filed seeking to set aside the order dated 18.11.2013 made by the Company Law Board in C.P.No.36 of 2012 in so far as directing the closure of the company petition and thereby restore the petition, direct hearing of the same on merits.

2.The learned Senior Counsel appearing for the appellant submitted that the first respondent is a registered company having its registered office at no.5/21, Karunkulam, Kettuvayal Post, Ramanathapuram, Tamil Nadu and from the annual report, it is seen that the registered office was shifted to no.41, Meena Estate Main Road, Coimbatore. The appellant neither received any notice of change of registered office nor aware of any resolution passed to this effect. The second respondent in collusion with the other respondents to suit his whims and fancies coupled with an intent to make a personal gain/ illegal enrichment, has acted unilaterally and effected the above change amongst the other changes without adopting the procedure contemplated in law, namely, without approval or consent from the shareholders and contrary to the memorandum/ articles of association.



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3.The learned Senior Counsel appearing for the appellant further submitted that the appellants are shareholders to the tune of 800 shares (400 each), however they were not issued with share certificates, annual reports and balance sheets and there was mis-management. Thereby the appellants filed petition in C.P.No.36 of 2012 before the Company Law Board, Chennai Bench under Sections 397, 398, 402, 403 and 406 of the Companies Act, 1956 and the said petition was dismissed as not maintainable.

4.The learned counsel appearing for the respondents 1 to 3 submitted that already the appellants filed C.P.No.308 of 2003 before this Court seeking for winding up of the company under Section 433 (b) & (f) of the Companies Act and the said petition was allowed exparte as against the respondents against which, the respondents filed set aside application and that was allowed against which the appellants preferred O.S.A.No.251 of 2008 before this Court and the said OSA was dismissed and subsequently, the petition seeking for winding up of the company filed by the appellants was dismissed as withdrawn. Thereafter, the appellants filed C.P.No.36 of 2012 before the Company Law Board, Chennai Bench and the said petition was



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dismissed as not maintainable.

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5.Heard the arguments advanced on either side and perused the materials available on record.

6.Perusal of records reveal that C.P.No.36 of 2012 filed by the appellants before the Company Law Board, Chennai Bench, was dismissed as not maintainable on the ground that the appellants did not produce share certificates to prove that they are the shareholders of the first respondent company. However, copy of the share certificates reflecting the names of the appellants have been filed in the typed set of papers filed by the appellants before this Court. On the sole ground, this Court set aside the the order dated 18.11.2013 made by the Company Law Board in C.P.No.36 of 2012 and remand the matter back to the Company Law Board for fresh adjudication. Liberty is granted to the appellants to produce the share certificates and other relevant documents before the Company Law Board. Further liberty is granted to the appellants to take their defence before the Company Law Board. The Company Law Board shall consider the matter afresh, provide opportunity to the appellants as well as the respondents and thereafter shall pass appropriate orders.



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7.The civil miscellaneous appeal is allowed on the above terms.

The order dated 18.11.2013 made by the Company Law Board in C.P.No.36 of 2012, is set aside. No costs.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Company Law Board,
Chennai Bench.



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