

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORIGINAL JURISDICTION)

Thursday, the 4th day of May, 2017

THE HON'BLE DR.JUSTICE S.VIMALA

COMP.APPLN.NOS.462 AND 463 OF 2017

IN

COMP.PETN.NO.267 OF 2015

In the matter of the Companies Act, 1956

and

In the matter of Vasan Health Care Private Limited

CP.No.267/2015:

1. Ganeshi Lal Jain
 2. Suresh Kumar Jain
- Both sons of late Mr.G.D.Jain
Residing at No.1/6-B Pusa Road,
New Delhi - 110 005. .. Petitioners

Vs.

M/s.Vasan Health Care Pvt.Limited,
Rep.by its Managing Director,
Dr.A.M.Arun,
Having its registered office at
No.70, Dr.Radhakrishnan Salai,
West Minister Complex, Mylapore,
Chennai - 600 004. .. Respondent

C.A.Nos.462&463/2017:

M/s.Vasan Health Care Pvt.Limited,
Rep.by its Managing Director,
Dr.A.M.Arun,
Having its registered office at
No.70, Dr.Radhakrishnan Salai,
West Minister Complex, Mylapore,
Chennai - 600 004.

.. Applicant in both the
applications

Vs.

1. Ganeshi Lal Jain
 2. Suresh Kumar Jain
- Both sons of late Mr.G.D.Jain
Residing at No.1/6-B Pusa Road,
New Delhi - 110 005.

3. M/s.Alcon Laboratories (India) Pvt.Ltd.,
3rd Floor, Crescent-4,
Prestige Shanthiniketan,
Whitefiled, Bangalore-560 048. .. Respondents/3rd Party
in both the applications

The Company Applicant in CA.No.462/2017 praying this Court to withdraw the application in C.A./1(IB)/CB/2017 pending before Hon'ble National Company Law Tribunal, Chennai Bench, to be heard and decided along with the above Company Petition in C.P.No.267 of 2015 and batch.

The Company Applicant in CA.No.463/2017 praying this Court to stay the operation of the order made in C.A./1 (IB)/CB/2017 by the Hon'ble National Company Law Tribunal, Chennai Bench, pending application for transfer.

These Company Applications coming on this day before this court for hearing in the presence of Mr.Arvinth Pandian, Senior Counsel for M/s.S.R.Rajagopal, Advocate for the applicant in both the applications and of Mr.C.Seethapathy, Advocate for R1 & R2 and upon reading the Judge's Summons and affidavits of Dr.A.M.Arun filed in CA.Nos.462&463/2017, the Court made the following order:

"Mr.C.Seethapathy, learned counsel, takes notice for respondents 1 and 2.

2. Company Application No.462 of 2017 has been filed by the Applicant, M/s. Vasan Health Care Pvt. Ltd., seeking to withdraw the Application in C.A./1(IB)/CB/2017, pending before the National Company Law Tribunal, Chennai Bench, to be heard and decided along with the above Company Petition No.267 of 2015.

2.1. Pending decision of the said Application, Company Application No.463 of 2017 has been filed by the Applicant, M/s.Vasan Health Care Pvt. Ltd., seeking to grant stay of

operation of the order made in C.A./1(IB)/CB/2017, pending before the National Company Law Tribunal, Chennai Bench.

3. Heard the learned counsel appearing for the Applicant and the learned counsel appearing for respondents 1 and 2.

4. The learned counsel appearing for the Applicant seeks stay of proceedings of the National Company Law Tribunal, Chennai Bench, on the ground that only certain categories of company petitions alone have been transferred to NCLT and this case does not fall under those categories and C.P.No.267 of 2015 has been retained by this Court and not transferred.

4.1. It is the contention of the learned counsel appearing for the Applicant, in both these Applications, that it is only the Company Court, which has jurisdiction to decide the issue and the order passed by the National Company Law Tribunal, Chennai Bench, (based on the Application filed by one of the creditors of the Applicant company, who should have filed an application to implead himself in a pending Application) would amount to usurping the jurisdiction of this Court in a pending proceeding and therefore, the order should be suspended.

5. So far as proceedings under the Insolvency and Bankruptcy Code, 2016, is concerned, the adjudicatory authority under the Act is NCLT only. However, it is contended that the issue raised therein would have direct implication in the pending Company Petition and therefore that Application has to be decided along with the Company Petition, pending before this Court.

6. Considering the question of law raised, there shall be an order of interim stay of operation of C.A./1(IB)/CB/2017, pending before the National Company Law Tribunal, Chennai Bench, till 05.06.2017.

6.1. Notice to the third respondent (third party), returnable by 05.06.2017, in addition to private service.

7. List the case on 06.06.2017."

WITNESS, The Hon'ble Ms.Indira Banerjee, The Chief Justice of Madras High Court, aforesaid this the 4th day of May 2017.

Sd/-

JOINT REGISTRAR(O.S)i/c

//CERTIFIED TO BE A TRUE COPY//
DATED THIS THE 04th DAY OF May 2017.

G. Rami
10/04/2017
COURT OFFICER.

From 25th September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decree in this format.

Kam/4/5/2017

COMP. APPLN. NOS. 462 AND 463
OF 2017
IN
COMP. PETN. NO. 267 OF 2015

ORDER DATED: 04.05.2017



THE HON'BLE DR. JUSTICE
S. VIMALA

FOR APPROVAL ON: 04/05/2017

APPROVED ON: 04/05/2017

HIGHS COURT, MADRAS

CRIMINAL SIDE

S.A. No. 6011

Applied 04/05/2017

Stamp called for 04/05/17

Stamps put in 04/05/17

Ready 04/05/17

AC
04/5/17
C.O. (C.S.)

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