

Appellant Vs. Respondent

Appellant Vs. Respondent

SooperKanoon Citation : sooperkanoon.com/1061047

Court : Kolkata

Decided On : Apr-17-2012

Judge : Sanjib Banerjee

Appellant : Appellant

Respondent : Respondent

Judgement :

CP No.38 of 2012 IN THE HIGH COURT AT CALCUTTA Original Jurisdiction In the matter of:PROSANTO SAHA And THE REGISTRAR OF COMPANIES Appearance Mr.Ranjan Bachawat, Advocate Mr.Suman Dutta, Advocate Ms.Husnara Begum, Advocate BEFORE: The Hon'ble JUSTICE SANJIB BANERJEE Date :

17. h April, 2012.

The Court : This is a petition under Section 560 of the Companies Act, 1956 by a person claiming to have been a director of a company that suffered the ignominy of its name being struck off for non-filing of statutory records.

It is admitted by the petitioner that though the company enjoyed an exemption, pursuant to a Court order, from filing its statutory records following disputes having arisen between those in management of the company, the exemption ran out in or about the year 1998 and the statutory records and documents had not been filed by the company with the Registrar between 1998 and the time that the companys

name was struck off in the year 2007.

The petitioner says that the Registrar did not follow the procedure under Section 560 of the Act of fiRs. requiring the company to regularise its position and thereafter serving a final notice before striking off the companys name.

Even if the company is entitled to have its name restored because of the Registrars failure to comply with the statutory requirements of Section 560 of the Act, it cannot be lost sight of that the company continued to exist and function and it did not comply with the mandatory provisions of depositing its accounts and other statutory documents with the Registrar for a period of nearly nine yeRs. Since the petitioner has offered to pay a sum of Rs.1 lakh by way of costs, CP No.38 of 2012 is allowed on condition that such amount be deposited with the Registrar of Companies within a fortnight from date whereupon the Registrar will deposit the amount in the same account where penalties and fines are deposited.

Upon the payment being made, the name of the company will be restored and the officers of the company should be given immediate access to the relevant portal for the statutory information to be lodged.

The companys future operation will be subject to two further conditions : all statutory records and documents that ought to have been filed by the company till date should be filed within a period of six weeks from the date of the payment in terms of this order by the petitioner to the Registrar, in default whereof the name of the company will be struck off under authority of this order; and, for a period of two years from date, there can be no transgression on the part of the company and its officers in complying with the provisions for filing documents, records and returns with the Registrar of Companies, or, in default, the Registrar will be entitled to strike off the name of the company under authority of this order.

There will be no further order as to costs.

Urgent certified photocopies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(SANJIB BANERJEE, J.) sg.

