

Appellant Vs. Respondent

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SooperKanoon Citation : sooperkanoon.com/1100658

Court : Kolkata

Decided On : Dec-11-2013

Judge : Harish Tandon

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER

SHEET IN THE HIGH COURT AT CALCUTTA Original Civil Jurisdiction
ORIGINAL SIDE CA No.50 of 2013 WITH CP No.261 of 2002 JENSONS
NICHOLSON FINANCE SERVICE LTD.(IN LIQN.) -ANDTHE OFFICIAL
LIQUIDATOR, HIGH COURT, CALCUTTA Appearance : Mr.Rajeev Kr.

Jain, Adv., Mr.Rahul Ginodia, Adv.for Item No.67 Mr.D.Basu, Advocate, Ms.Sunita
Das, Advocate, Official Liquidator in Item No.64 BEFORE: The Hon'ble JUSTICE
HARISH TANDON Date : 11th December, 2013.

The Court: This is an application at the instance of accused No.2 for dropping and
discharging from the misfeasance proceedings.

It is categorically averred in the affidavit filed in support of the Judges Summons
that the applicant was never appointed as Director in the company (in liquidation)
nor have any nexus and/or connection therewith.

It is further contended that the applicant never held any shares in the company (in liquidation) and the father name, age and the date of birth is wrongly recorded therein.

It is submitted on behalf of applicant that his name is wrongly recorded as Director and, therefore, this misfeasance proceeding should not be proceeded with.

It appears that in couRs.of the misfeasance proceedings, this Court directed the Serious Fraud Investigation Office (SFIO) to enquire into the matter and in couRs.of the enquiry the applicant was called and was directed to hand over the specimen signature appearing in one of the Bank Accounts.

Although, the applicant says that the signature appearing in Form No.29 is forged one but it appears from the affidavit-in-opposition filed by the Official Liquidator that the specimen signatures submitted by the applicant, in fact, tallies with the signature appearing in the said Form.

Whether the accused No.2 has any connection and/or nexus with the company (in liquidation) or the signature appearing in the record of the company is the signature of the applicant is a matter to be decided on trial.

This Court, therefore, does not find any justification in deleting the name of the accused No.2, the applicant herein, as a party in the misfeasance proceedings.

It is submitted at this stage that the statement of claims has not been served.

Although, Mr.Basu, leaned advocate, appearing for the Official Liquidator on instruction submits that the statement of claims has already been forwarded and served upon the said accused but in order to avoid any complication, agrees to hand over another copy of the statement of claims to the advocate-on-record of the said accused No.2.

In view of the finding made hereinabove, the application is devoid of merit and the same is hereby dismissed.

The Official Liquidator is directed to serve the copy of the statement of claims upon the advocate-on-record of the accused No.2 in couRs.of this week.

(HARISH TANDON, J.) akb/-

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