

Appellant Vs. Respondent

Appellant Vs. Respondent

SooperKanoon Citation : sooperkanoon.com/1119199

Court : Kolkata

Decided On : Jan-21-2014

Judge : Nadira Patherya

Appellant : Appellant

Respondent : Respondent

Judgement :

CP No.323 of 2013 IN THE HIGH COURT AT CALCUTTA Original Jurisdiction IN THE MATTER OF: FEDERATION OF ALL INDIA PETROLEUM TRADERS & ANR.

And REGISTRAR OF COMPANIES & ANR.

Appearance Mr.Samit Talukdar, Sr.Adv.Mr.Sabyasachi Sen, Adv.Applicants Mr.K.Thakkar, Adv.Mr.A.K.Mishra, Adv.Respondents BEFORE: The Hon'ble JUSTICE PATHERYA Date : 21st January, 2014.

The Court : This application has been filed under Section 560 of the Companies Act, 1956 as the name of the company has been removed from the register of the Registrar of Companies and the applicants herein seek restoration thereof.

A preliminary issue of maintainability of this application has been raised as the application has been filed by the Vice-President of the company.

From the Articles of Association of the de-registered company and, in particular, Article 59, the de-registered company is to be sued and shall sue in the name of the General Secretary.

The said Article remains unamended.

Although an authorization letter dated 17th April, 2013 has been handed over to Court wherefrom it appears that the President has authorised the Vice-President to sign and file papers in connection with the instant application.

The Vice-President is not the person entitled to sue or be sued.

In fact, it will not be out of place to mention that a supplementary affidavit has been filed and the same has been affirmed by one T.S.Anand, the name finds mention as the General Secretary in the letter of authorization dated 17th April, 2013.

Therefore, this application in its present form being filed by the Vice-President cannot be maintained and is, accordingly, dismissed.

It is made clear that the merits of the case has not been considered, and it is only on this maintainability issue that this application has been dismissed.

The letter dated 17th April, 2013 be kept with the records.

All parties concerned are to act on a signed photostat copy of this order on the usual undertakings.

(PATHERYA, J.) sg.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com