

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
TUESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY ONE

:PRESENT:
THE HONOURABLE SRI JUSTICE A V SESA SAI



I.A No. 1 OF 2021
IN
WP NO: 13446 OF 2021

Between:

1. Sapphire Blossom Rocks Private Limited, Having its registered office at Industrial part (Expansion), Renigunta Road, Chittoor District, Tirupati, Andhra Pradesh - 517 506, Represented by its Managing Director, Mr. Satish Kumar Pattern.
2. Mr. Satish Kumar Pottem,, Director, Sapphire Blossom Rocks Private Limited, R/o. Industrial Park (Expansion), Renigunta Road, Tirupati, Chittoor District, Tirupati, Chittoor District - 517 506
3. Mr. Ramesh Kumar Pottem,, Director, Sapphire Blossom Rocks Private Limited, R/o. Industrial Park (Expansion), Renigunta Road, Tirupati, Chittoor District, Tirupati, Chittoor District - 517 506
4. Mrs. Sarojamma Pottem,, Director, Sapphire Blossom Rocks Private Limited, R/o. Industrial Park (Expansion), Renigunta Road, Tirupati, Chittoor District, Tirupati, Chittoor District - 517 506

...Petitioners
(Petitioner in WP 13446 OF 2021
on the file of High Court)

AND

1. The Union of India, Rep by its Secretary, Ministry of Corporate Affairs, A- Wing, Shastri Bhawan, Rajendra Prasad Road, New Delhi 110 001.
2. The Registrar of Companies, Office of the Registrar of Companies, Goli Complex, Door No. 29-7-33, Vishnuvardhan Rao Street, Suryarao Pet, Vijayawada, Andhra Pradesh - 520 002
3. The Assistant Registrar of Companies,, Office of the Registrar of Companies, Goli Complex, Door No. 29-7-33, Vishnuvardhan Rao Street, Suryarao Pet, Vijayawada, Andhra Pradesh - 520 002
4. Mr. Suresh Kumar Pottem, C/o. N. Muneyya, Company Secretary, Flat No. 115, Bhanu Enclave, Erragadda, Hyderabad - 500 038 Email. pskumar@hotmail.com
5. Mr. Sunil Kumar Pottem, 18-1-762, Bhavani Nagar, Tirupathi (Urban), Tirupathi, Chittoor 517 501 Email . sindipottem@gmail.com

...Respondents
(Respondents in-do-)

Counsel for the Petitioner :SRI DANDUGULA SATYA SIVA DARSHAN
Counsel for the Respondent Nos.1 to 3 :HARINATH N (Asst Solicitor General)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay all further proceedings pursuant to the Impugned Order dated 05.07.2021 thereby not to take any coercive steps against the Petitioners, pending disposal of WP No. 13446 of 2021, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following order.(The receipt of this order will be deemed to be the receipt of notice in the case).

ORDER:

According to the petitioners, first petitioner is a company and petitioners 2 to 4 and respondents 4 and 5 are the Directors of the first petitioner-company.

On the complaint made by the respondents 4 and 5, respondents 2 and 3 initiated action under Section 206 of the Companies Act, 2013 (for brevity, 'the Act') alleging mismanagement. Third respondent herein vide proceedings in F.No.ROC (V)/complaints/2021/120, dated 05.07.2021, directed the company and its officers not to file any DIR-12 E form for appointment/cessation of Directors under STP mode till the closure of the complaint by the office of the Registrar.

Questioning the validity of the said proceedings, dated 30.04.2021, petitioners herein earlier approached this Court by way of filing W.P.No.12825 of 2021.

When the said Writ Petition came up before this Court, on 06.07.2021, it was brought to the notice of this Court by the learned counsel for the petitioners that, after filing the said Writ Petition, on 05.07.2021, at about 7.30 p.m., petitioners received the e-mail communication stating that the complaint lodged by R4 and R5 before the Registrar of Companies came to be closed by the respondents. It was also submitted by the learned counsel for the petitioners that he came to know that the respondent-Registrar made certain observations in the said order, prejudicial to the interest of the petitioners and made a request to question the same.

In the above background, leaving it open for the petitioners herein to question the validity of the order, on 05.07.2021, before the appropriate forum of law, W.P.No.12825 of 2021 came to be closed by this Court *vide* order, dated 06.07.2021.

In the present Writ Petition, challenge is to the proceedings bearing F.No.ROC(V)/complaints/2021/120, dated 05.07.2021, wherein the third respondent recorded certain observations.

According to the learned counsel for the petitioners, the impugned action on the part of the third respondent is a gross violation of the mandatory provisions of sub-Section (4) of Section 206 of the Act. In elaboration, it is further contended by the learned counsel for the petitioners that the said provision of law obligates the Registrar to communicate the allegations in writing and to call for the information. It is further stated that, only after strict compliance of the said mandatory requirements, further course of action, under Section 208 of the Act, is permissible.

According to the learned counsel for the petitioners, third respondent herein passed the impugned order in contravention of the said provisions of law. This Court, *prima facie* finds sufficient force in the said submission of the learned counsel.

For the aforesaid reasons, there shall be interim order as prayed for. —

//TRUE COPY//

Sd/-M.RameshBabu
ASSISTANT REGISTRAR

SECTION OFFICER

To

1. The Secretary, Ministry of Corporate Affairs, A- Wing, Union of India, Shastri Bhawan, Rajendra Prasad Road, New Delhi 110 001.
2. The Registrar of Companies, Office of the Registrar of Companies, Goli Complex, Door No. 29-7-33, Vishnuvardhan Rao Street, Suryarao Pet, Vijayawada, Andhra Pradesh - 520 002
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5. Mr. Sunil Kumar Pottem, 18-1-762, Bhavani Nagar, Tirupathi (Urban), Tirupathi, Chittoor 517 501 Email . (1 to 5 by RPAD)
6. One CC to Sri Dandugula Satya Siva Darshan, Advocate [OPUC]
7. One CC to Sri N. Harinath, Asst Solicitor General, High Court of A.P at Amaravati [OUT]
8. One spare copy

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DATED:13/07/2021

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ORDER

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INTERIM DIRECTION

