

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT-I
KOLKATA**

C.P. 113/KB/2023

An Application under Section 241 & 242 of the Companies Act, 2013 and
the Rules made there under.

And

IN THE MATTER OF:

M/s. SAAKAAR CONSTRUCTIONS PRIVATE LIMITED, a Company incorporated under the provisions of the Companies Act, 1956, having its Registered Office Address at 5th Floor, Sone Bhawan, Birchand Patel Marg, Patna, Bihar-800001.

And

IN THE MATTER OF:

- 1. MR. SUDIP KUMAR,**
- 2. MRS. USHA AGARWAL**

...Petitioners

-Versus-

- 1. M/s. SAAKAAR CONSTRUCTIONS PRIVATE LIMITED**
- 2. MR. JITENDRA NATH GUPTA**
- 3. MRS. SMITA CHOUDHARY**
- 4. MR. VISHNU KUMAR CHOUDHARY**
- 5. MR. RAVI TALWAR**
- 6. MRS. SUPRIYA KUMAR**
- 7. MR. RAVI BHUSHAN**

...Respondents

And

I.A. (CA) 158/KB/2023

An Application under Section 420 of the Companies Act, 2013 read with Rule 11 and Rule 154 of the National Company Law Tribunal Rules, 2016

And

IN THE MATTER OF:

MR. SUDIP KUMAR & ANR.

...Petitioners

-Versus-

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M/s SAAKAAR CONSTRUCTIONS PRIVATE LIMITED & ORS.

...Respondents

And

IN THE MATTER OF:

MR. SUDIP KUMAR & ANR.

...Applicants

COMP. APPL 101/KB/2023

IN THE MATTER OF:

An Application under Section 242(4) of the Companies Act, 2013 and Rules made there under.

And

IN THE MATTER OF:

Rule 11 and Rule 154 of the National Company Law Tribunal Rules, 2016.

And

IN THE MATTER OF:

MR. SUDIP KUMAR & ANR.

...Petitioners

-Versus-

M/s SAAKAAR CONSTRUCTIONS PRIVATE LIMITED & ORS.

...Respondents

And

IN THE MATTER OF:

MR. SUDIP KUMAR & ANR.

...Applicants

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M/s SAAKAAR CONSTRUCTIONS PRIVATE LIMITED & ORS.

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An Application under Section 241 & 242 of the Companies Act 2013 and Rule 11 of the National Company Law Tribunal Rules, 2016;

And

IN THE MATTER OF:

MR. SUDIP KUMAR & ANR.

...Petitioners

-Versus-

M/s SAAKAAR CONSTRUCTIONS PRIVATE LIMITED & ORS.

...Respondents

And

IN THE MATTER OF:

MR. SUDIP KUMAR & ANR.

...Applicants

-Versus-

M/s SAAKAAR CONSTRUCTIONS PRIVATE LIMITED & ORS.

...Respondents

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IN THE MATTER OF:

Section 425 of the Companies Act, 2013

And

IN THE MATTER OF:

An Application under Rule 11 and Rule 51 of the National Company Law Tribunal Rules, 2016.

IN THE MATTER OF:

MR. SUDIP KUMAR & ANR.

...Petitioners

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M/s SAAKAAR CONSTRUCTIONS PRIVATE LIMITED & ORS.

...Respondents

And

IN THE MATTER OF:

M/s SAAKAAR CONSTRUCTIONS PRIVATE LIMITED & ORS.

...Applicants

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MR. SUDIP KUMAR & ANR.

...Respondents

CONT. A. 8/KB/2023

An Application under Section 425 of the Companies Act, 2013

And

IN THE MATTER OF:

The National Company Law Tribunal Rules, 2016

And

IN THE MATTER OF:

M/s SAAKAAR CONSTRUCTIONS PRIVATE LIMITED & ORS.

And

IN THE MATTER OF:

MR. SUDIP KUMAR & ANR.

...Petitioners

-Versus-

M/s SAAKAAR CONSTRUCTIONS PRIVATE LIMITED & ORS.

...Contemnors/Respondents

Date of Pronouncement: 12.06.2026

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CORAM:

**SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)
CMDE SIDDHARTH MISHRA, HON'BLE MEMBER (TECHNICAL)**

APPEARANCE:

For the Petitioners:

Mr. Shaunak Mitra, Adv.
Mr. Kanish Kejriwal, Adv.
Mr. Aishwarya Kumar Awasthi, Adv.

For the Respondent:

Mr. Rihshav Banerjee, Adv.
Mr. Arani Guha, Adv.

ORDER

PER: Cmde Siddharth Mishra, Member (Technical):

1. The Court convened through hybrid mode.
2. The learned counsels for the parties were heard at length.
3. The present Petition being C.P. No. 113/KB/2023 has been filed by Mr. Sudip Kumar (hereinafter referred to as Petitioner No. 1), the erstwhile Managing Director of M/s. Saakaar Constructions Private Limited (hereinafter referred to as the Respondent Company) and Mrs. Usha Agarwal, the erstwhile Director of the Respondent Company alleging acts of oppression and mismanagement, seeking the following reliefs:
 - a. *To allow the instant Petition;*
 - b. *A scheme be framed for management and administration of the company;*

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- c.** *To pass direction to maintain the status quo on the positions as well as the designations of directors in the board of the company;*
- d.** *Injunctions restraining the Respondents and/or their men, servants, agents or assigns from in any manner selling, encumbering, alienating or dealing with or creating with any third party interest in respect of the assets and in properties of the Company;*
- e.** *To pass an order for stay of the Board Meeting scheduled to be held on 17th April 2023;*
- f.** *Injunction restraining the respondents from convening or holding any general meeting or board meeting of the company;*
- g.** *To declare the notice for convening of the board meeting dated 6th April, 2023 alleged to be held on 17th April 2023 as null and void;*
- h.** *To direct the Registrar of Companies to not take cognizance of any of the form, filed for the purposes of changing designation and a change in composition of board of directors of the Company;*
- i.** *To permit the petitioner in exclusively to operate the bank accounts of the company;*
- j.** *Injunction restraining the respondents from conducting the affairs of the company or intermingling with the affairs of the company or from operating the bank account of the company in any formal manner whatsoever;*
- k.** *Injunction restraining the respondents from taking any step-in relation to the affairs of the company and or filing any documents or returns related to the company, including any*

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filing on the online portal of the Ministry of corporate affairs and registrar of companies;

- l. Mandatory injunction upon the Respondents to disclose the books, records and accounts of the company which they have in their possession;*
- m. To direct the Respondents to cooperate with the petitioner No. 1 in day to day of working of the company the business of the company is not hampered.*
- n. A Special officer/ Administrator shall be appointed to take charge in custody of any records or accounts of the company that may presently be in the custody of the respondents and to makeover the same to the petitioner;*
- o. Appropriate reliefs be passed in accordance with section 242 of the Companies Act, 2013;*
- p. Ad-interim orders in terms of prayers above;*
- q. Costs of and incidental to this petition be paid by the Respondents;*

4. Background of the case:

4.1 The Respondent No. 1 Company, M/s Saakaar Construction Private Limited was incorporated on 07.10.1996 and is engaged in the business of Real Estate.

4.2 The Petitioner No. 1 has been a part of the Respondent Company since its inception and was a Managing Director of the Respondent Company from 01.05.2012 to 12.06.2023.

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- 4.3** The present Petition was filed after passing of a Board Resolution dated 28.03.2023, which sought to redesignate Petitioner No. 1 from a Managing Director to a Director and appoint Mr. Vishnu Kumar Choudhary as the Managing Director instead.
- 4.4** This Tribunal has passed an interim order dated 17.04.2023 whereby the termination of Petitioner No. 1 as the Managing Director of the Respondent Company in terms of the notice dated 06.04.2023 was stayed. Further direction of maintaining status quo with regard to shareholding and directorship of the Board was also passed.
- 4.5** Despite the subsistence of the aforesaid order, the Petitioners tendered their resignation on 12.06.2023.
- 4.6** Vide order dated 09.10.2025, the Hon'ble Patna High Court in MA No. 631 of 2025 had nudged the parties towards settlement. Accordingly a letter offering settlement was sent by the Respondents on 25.11.2025 wherein the promoters in their individual capacity were willing to buy back the shares of the Petitioners.
- 4.7** The Respondents had further mentioned that if the Petitioners agree then it can be submitted before the Learned Court that the Petitioners will withdraw the title suit now and settle the matter in the future. The Petitioners refused the same, insisting that the settlement, including the modalities of payment, be mutually agreed upon and incorporated in a joint compromise petition to be filed before the Hon'ble Court, as a full and final settlement of all disputes between the parties. The discussion came to a deadlock and no settlement could be arrived at.

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5. Submissions on Behalf of the Petitioners:

- 5.1** It is submitted that the cause of action for filing the Company Petition arose on 28.03.2023 when the Petitioner No. 1 received a copy of draft Board Resolution purportedly dated 28.03.2023 which was not signed by the Petitioners or the Respondent No. 7. The resolutions noted resignation of Petitioner No. 1 as Managing Director and changed his designation to Director, while appointing the Respondent No. 2 as the Managing Director.
- 5.2** It is further submitted that the Petitioners also received an unsigned letter of resignation dated 19.03.2023 allegedly issued by Petitioner No. 1 resigning as Managing Director of Respondent No. 1 Company.
- 5.3** It is submitted that the purported minutes of meeting dated 28.03.2023 and the letter of resignation dated 19.03.2023 were both prepared without any notice to, or knowledge or consent of the Petitioners. The Petitioners were never informed of such Board Meeting.
- 5.4** It is submitted that the Petitioner No. 1 apprehended that the Respondents are intent upon removing the Petitioners from their position in the Company. The Petitioner No. 1 opposed the wrongful actions of the Respondents by letter dated 08.04.2023.
- 5.5** It is submitted that sometime around 06.04.2023 the Petitioners received a notice purportedly issued by Respondent No. 2 on behalf of the Respondent No. 1 Company, notifying a Board Meeting to be held

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on 17.04.2023, inter alia, for termination the position of Petitioner No. 1 as Managing Director and redesignating him as a Director.

- 5.6** It is submitted that the Respondent No. 1 Company is engaged in the development, construction and sale of a large housing project in Ranchi, Jharkhand, named as "Saakaar Aqua City consisting of about 1500 residential units. The project was being single handedly managed by Petitioner No. 1 and the Respondents intend to take-over such project by sidelining and ousting the Petitioners despite their 31% shareholding in the Company.
- 5.7** It is averred that the Respondents intend to siphon off funds of Respondent No. 1 Company, tamper records of the Company and seek to alter the shareholding of the Company to the prejudice of the Respondents after removing Petitioner No. 1 as Managing Director. Further, the Respondents have tried to instigate certain employees to not obey the directions of Petitioner No. 1.
- 5.8** It is submitted that the Respondent Nos. 2, 4 and 7 are running parallel/competing businesses despite being promoter directors of the Respondent No. 1 Company.

6. Reply on Behalf of Respondents:

- 6.1** It is contended that the petition is entirely non-maintainable as the Petitioner's claim rests on apprehension and speculation, namely- anticipated or proposed removal and re-designation of the Petitioner's directorship. It is a settled proposition of law that the equitable

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jurisdiction of this Hon'ble Tribunal under Section 241 and 242 cannot be invoked based on mere future references.

- 6.2** It is further contended that despite the order of this Hon'ble Tribunal in I.A. 121 of 2023, directing that "status-quo be maintained with regard to shareholdings and directorships of the Board as of today" the Petitioners have voluntarily resigned and therefore the perceived threat of removal, which was the sole foundation of this petition, no longer exists.
- 6.3** It is contended that the Petitioners have actively acted against the interests of the Company. Petitioner No. 1 has deliberately diverted business opportunities of the Respondent No. 1 Company towards his own private entity and has systemically outsourced the Respondent No. 1 Company's lucrative operational contracts to entities controlled by his immediate family. The instances wherein the Petitioner No. 1 undermined the interests of Respondent No. 1 Company are as follows:
- a.** The "Patna Project" was intentionally delayed by Petitioner No. 1, which led to the landowners issuing an ultimatum. The Board was forced to exit the project to avoid litigation. Thereafter, Petitioner No. 1 through his own private entity Laacasa Developers Private Limited, entered into a fresh development agreement with the same landowners for his personal benefit.
 - b.** Petitioner No. 1 awarded a contract for supply to Alwindor Glazing Coating LLP, which is controlled by his son, without proper competitive bidding process.

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- c.** Petitioner No. 1 appointed WRDHRD Technologies Private Limited, a tech start up promoted by his daughter, to handle the Company's digital media marketing.
- 6.4** It is contended that the Petitioner No. 1 was unilaterally and recklessly created liabilities, namely two cheques amounting to Rs. 25 Lakhs each, without the approval of the Board, exposing the Company to severe financial risks, potential third-party claims or misuse. This conduct has shattered the Board's confidence and necessitated the lawful, defensive action to re-designate him and protect the Company's assets.
- 6.5** It is contended that the track record of Petitioner No. 1 encompasses several criminal charges and multiple litigations, permanently disqualifying him from any fiduciary role. Moreover, Respondent No. 1 Company has itself registered an FIR against Respondent No. 1 for defrauding the Respondent Company.
- 6.6** It is contended that the Petitioner No. 1 has created oppressive environment which is evidenced by complaints received from multiple staff members documenting mental harassment, abusive language and extreme pressure from Petitioner No. 1 to manipulate purchase figures and account data.
- 6.7** It is contended that the Petitioners have maliciously alleged that the Respondents are neglecting the affairs of Respondent No. 1 Company and are engaged in doing business of similar nature through other personal entities. However, all these businesses are separate and pose no conflicting interest with the Respondent Company.

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- 6.8** It is contended that the failure of the Petitioners to report their resignation despite subsisting status-quo order dated 17.04.2023 constitutes as statutory non-compliance. By voluntarily resigning, the Petitioners have waived the protection of the status-quo order regarding their directorships. Therefore, IA 121 of 2023 must be allowed to permit the Respondent No. 1 Company to file Form DIR-12 and formalize the Petitioners' exit, thereby bringing the MCA records in line with the actual, current factual matrix.
- 6.9** It is contended that the Hon'ble Supreme Court of India in **Tata Consultancy Services Limited v. Cyrus Investments Pvt. Ltd. & Ors. (2021) 9 SCC 449**, categorically held that the removal of a person from the post of Executive Chairman or Managing Director, even if done without prior notice, falls entirely within the realm of managerial prerogative and corporate democracy. Therefore, a mere removal from a directoral or managerial position cannot be cloaked as "oppression" or "mismanagement" under Section 241 and 242 of the Companies Act, 2013. The Board's proposal to re-designate Petitioner No. 1 was driven by a justifiable and documented loss of confidence.
- 6.10** It is contended that the Petitioners have falsely attempted to color Respondent No. 1 Company as a "quasi-partnership" to claim legitimate expectation of perpetual management. This practice was heavily deprecated by the Hon'ble Supreme Court in the Cyrus Mistry judgement, ruling that where a company is strictly governed by its Articles of Association, the principles of quasi-partnership cannot be

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arbitrarily invoked by a minority shareholder to bypass the statutory rights of the Board or the majority.

7. Rejoinder on Behalf of the Petitioners:

7.1 It is contended that the transactions complained of by the Respondents have been duly approved by the Respondents which is reflected in the balance sheets of the Company.

7.2 It is contended that the diverting business opportunities to Laacasa Developers Private Limited is a commercial decision of landowners which cannot concern the Respondent Company. Further, the delay in “Patna Project” was on account of Respondent No. 5.

7.3 It is contended that the Respondent Company obtained three price quotations, out of which, the price quotation of Alwindor Glazing and Coating LLP was the lowest. Further, the signatures of the respondents in the balance sheet indicates that they had the knowledge of and consented to such arrangement.

7.4 It is contended that the two cheques amounting to Rs. 25 Lakhs each, have no been encashed as the deal for which the cheques were issued did not follow through.

7.5 It is contended that WRDHRD Technologies Private Limited was taken on board as an emergency replacement for a duration of 6 months as the employee of Respondent No. 1 Company designated for digital marketing resigned. Once the work was stabilised and alternative

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arrangements were made, the task of online marketing was handed over to the in-house team of the Company.

7.6 It is contended that the FIR registered by Mr. Gautam Kumar, was against the Company and not against Petitioner No. 1 personally. The case lodged by Mr. Gautam Kumar was dismissed and the case was resolved without the Company suffering any loss.

8. The evidences place on record has been perused, the submissions and rival contentions have been noted.

9. Analysis and Findings:

9.1 The primary grievance of the Petitioners pertains to the proposed removal of Petitioner no. 1 from the position of Managing Director to Director and appointing Respondent No. 4 as the Managing Director instead, pursuant to the Board Resolution dated 28.03.2023 and the notice convening the purported Board Meeting dated 17.04.2023.

9.2 Vide order dated 17.04.2023, this Tribunal has stayed the operation of the impugned notice and directed that the status quo be maintained with regard to the shareholding and the directorship of the Company. Thus, the Board Resolution which sought removal of Petitioner No. 1 as the Managing Director of the Respondent Company could not be brought into effect.

9.3 However, despite the subsistence of the interim order dated 17.04.2023, the Petitioners tendered their resignation on 12.06.2023. Once the

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Petitioners stepped down from their Directorships voluntarily in the Respondent Company, the interim order is rendered nugatory.

9.4 Further, in **Tata Consultancy Services Limited v. Cyrus Investments Pvt. Ltd., (2021) 9 SCC 449**, the Hon'ble Supreme Court has categorically observed that:

“16.28 An important aspect to be noticed is that in a petition under Section 241, the Tribunal cannot ask the question whether the removal of a Director was legally valid and/or justified or not. The question to be asked is whether such a removal tantamount to a conduct oppressive or prejudicial to some members. Even in cases where the Tribunal finds that the removal of a Director was not in accordance with law or was not justified on facts, the Tribunal cannot grant a relief under Section 242 unless the removal was oppressive or prejudicial.

16.29 There may be cases where the removal of a Director might have been carried out perfectly in accordance with law and yet may be part of a larger design to oppress or prejudice the interests of some members. It is only in such cases that the Tribunal can grant a relief under Section 242. The Company Tribunal is not a labour Court or an administrative Tribunal to focus entirely on the manner of removal of a person from Directorship. Therefore, the accolades received by CPM from the 157 Nomination and Remuneration Committee or the Board of Directors on 29.6.2016, cannot advance his case.”

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- 9.5** Thus even if the proposed removal or re-designation of Petitioner No. 1 is procedurally irregular, that in itself does not constitute oppression within the meaning of Sections 241 of the Companies Act, 2013. The jurisdiction of this Tribunal is not invoked merely because an action of the Board is alleged to be illegal or invalid. It must be demonstrated that such action forms a part of a continuous course of conduct that is burdensome, harsh, wrongful, or prejudicial to the interests of the members or the Company.
- 9.6** Even assuming that the proposed removal of Petitioner No. 1 from the position of Managing Director was not in accordance with law, the Petitioners have not placed any material on record to establish that the same was done in order to oppress them in their capacity of a shareholder of the Respondent Company.
- 9.7** Apart from challenging the alleged wrongful removal of Petitioner No. 1 from the position of Managing Director, the Petitioners have also alleged the following acts of oppression and mismanagement against the Respondents:
- a.** The proposed removal of Petitioner No. 1 from the position of Managing Director and his re-designation as a Director pursuant to a purported Board Resolution dated 28.03.2023 and the proposed Board Meeting dated 17.04.2023, allegedly without giving due notice to the Petitioners.
 - b.** Interference with the regular functioning of the management by allegedly instigating the employees to not cooperate with the Petitioner No. 1.

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- c.** The operation of parallel and competing business ventures by Respondent Nos. 2, 4 and 7 while continuing to act as Directors of the Respondent Company, allegedly resulting in a conflict of interest and prejudice to the affairs of the Company.

9.2 On the other hand, the Respondents have levelled the following allegations against Petitioner No. 1:

- a.** Diversion of business opportunities belonging to the Respondent Company to his personal entity, namely, Laacasa Developers Private Limited, for his own benefit.
- b.** Awarding of contracts and business engagements to entities controlled by his son and daughter, namely, Alwindor Glazing Coating LLP and WRDHRD Technologies Private Limited, and allegedly without regard to the interests of the Respondent Company.
- c.** Subjecting employees of the Respondent Company to mental harassment.
- d.** Engaging in fraudulent and other wrongful acts, including involvement in criminal proceedings, thereby adversely affecting the goodwill, reputation, and financial standing of the Respondent Company.
- e.** Creating financial liabilities on behalf of the Respondent Company, without obtaining the requisite approval of the Board of Directors and thereby exposing the Company to financial and legal risks.

9.8 The allegations pertaining to siphoning off of funds by the Respondents, tampering with the books of account and records of the Respondent

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Company, interference with the management of the Company and alleged diversion of business opportunities to other private business ventures are founded solely on suspicion and apprehension. Neither the Petitioners, nor the Respondents have placed any cogent evidence on record to substantiate their claims.

- 9.9** Moreover, in I.A. 101/KB/2023, the Petitioners themselves admit that based on unsubstantiated rumours, they apprehend that the Respondents are selling the flat units in the Saakaar Aqua City Project at undervalued prices. They have drawn a far fetched inference that the proceeds from such undervalued sales would ultimately be siphoned off to the parallel business ventures of the existing Directors of the Respondent Company. However, not a single evidence has been placed on record to support this allegation.
- 9.10** It is a settled principle that allegations of oppression and mismanagement cannot be sustained merely on the basis on conjectures and anticipated wrongdoing.
- 9.11** Similarly the allegation that Respondent Nos. 2, 4 and 7 are engaged in competing businesses does not by itself constitute oppression or mismanagement in the absence of any evidence demonstrating that such parallel business is causing prejudice to the Respondent Company.
- 9.12** In **Needle Industries (India) Ltd. And Ors. V. Needle Industries Newey (India) Holding Ltd. And Ors., (1981) 3 SCC 333**, the Hon'ble Apex Court has held that:

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“52. It is clear from these various decisions that on a true construction of Section 397, an unwise, inefficient or careless conduct of a Director in the performance of his duties cannot give rise to a claim for relief under that section. The person complaining of oppression must show that he has been constrained to submit to a conduct which lacks in probity, conduct which is unfair to him and which causes prejudice to him in the exercise of his legal and proprietary rights as a shareholder...”

9.13 Applying the aforesaid principle to the facts of the present case, the allegation that Petitioner No. 1 created financial liabilities without obtaining prior approval of the Board, even if assumed to be true, would amount to a commercially unwise business decision. Such conduct, in the absence of any material demonstrating lack of probity, unfair prejudice, or infringement of the rights of the shareholders, would not amount to oppression within the meaning of Section 241 of the Companies Act, 2013.

9.14 Upon considering the pleadings and materials on record, it appears that the dispute between the parties primarily stems from differences relating to the management and control of the Respondent Company. Mere disputes concerning corporate governance or managerial control, unaccompanied by any continuous acts of oppression, lack of probity, or conduct prejudicial to the interests of the Company and its shareholders, cannot form the basis for grant of relief under Sections 241 and 242 of the Companies Act, 2013.

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT-I
KOLKATA**

C.P. 113/KB/2023
I.A. (CA) 158/KB/2023
COMP. APPL 101/KB/2023
I.A. (CA) 121/KB/2023
CONT A. 15/KB/2023
CONT. A. 8/KB/2023

9.15 In view of the foregoing discussions, the instant Petition being **C.P. 113/KB/2023** stands **dismissed**.

9.16 Consequently, **I.A. (CA) 158/KB/2023, COMP. APPL 101/KB/2023, I.A. (CA) 121/KB/2023, CONT A. 15/KB/2023, CONT. A. 8/KB/2023**, being connected Applications arising out of the present proceedings are also **dismissed**.

9.17 Certified copies of this order, if applied for with the Registry of this Adjudicating Authority, be supplied to the parties upon compliance with all requisite formalities.

Cmde Siddharth Mishra
Member (Technical)

Smt. Bidisha Banerjee
Member (Judicial)

The Order signed on the **12th** day of **June** 2026.

Anubhuti S. (LRA)