

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) No. 341 of 2026 &
I.A. No. 6408 of 2026

IN THE MATTER OF:

Nikhil Rai & Anr.

...Appellants

Versus

Vcare Technologies Private Limited & Ors.

...Respondents

Present:

For Appellant : Mr. Amit Goel, Advocate.

For Respondents : None.

O R D E R
(Hybrid Mode)

17.09.2026: The appellant who happens to be the applicant to the proceedings in the Company Petition- 341(MB)/2021. Assails the order of 08.04.2026, that was passed by the Ld. NCLT, Mumbai, whereby his proceedings u/s 59 has been rejected.

2. The company appeal is accompanied with an IA No.6408/2026, where the appellant has sought a condonation of delay that has chanced in refiling of the company appeal. As per the report of the Registry the delay of 39 days though, that is being argued otherwise by the appellant in the light of the facts which he has pleaded in his application filed in support of delay condonation in refiling of the appeal. In relation thereto, the Ld. Counsel for the appellants presses upon the pleadings raised in given para-3 & 4 of the application. but, however, looking over all totality of the pleadings and the arguments extended by the Ld. Counsel for the appellant in context of seeking condonation of delay in refiling. The delay of 39 days would stand condoned

for the reasons given in the application coupled with the fact that since the aspect of condonation delay in refiling is exclusively an issue between the appellant and the Tribunal. We are of the view that delay deserves to be condoned and accordingly IA No. 6408 of 2026 would stand disposed of.

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3. Heard Ld. Counsel for the appellant on the merits of the company appeal. The appellant's case had been that he had been share holder of 50% shares, which he contends that he has invested in the company through a share transfer agent and those shares were said to have been purchased with the initial name of "Sachin" without adding the surname therein "Sehgal".

4. Be that as it may, at this stage of the company appeal, we while looking to this nature of the order which is under challenge before us. What has revealed for the records of appeal, that for the purposes of the controversy arising in context to the transfer of shares. The appellant had already instituted a civil proceeding before the Civil Judge, Tis Hazari Court, which was numbered as Suit No. 595 of 1997, as against the respondent no.1 seeking an issue of duplicate shares to the appellant in relation to 50% share allotted to in the name of the appellant.

5. The Ld. Civil Judge, Tis Hazari Court vide its order dated 12.12.1997 had directed the suit to be proceeded ex-parte against the respondent no.1 and he has restrained transferring the shares in the name of anyone else, till

further orders. As per the records and even as per the arguments extended by the Ld. Counsel for the appellant, that the said suit is still pending consideration, but what is the present status of the suit, is argued by the appellant that its not known to him, owing to the fact that the records before Tis Hazari Court is not available. Non-availability of the records of the civil suit preferred by the appellant cannot be a reason to not to accept the findings which has been recorded by the Ld. Tribunal regards pendency of Civil Suit for the same controversy. Thus, abstaining itself to entertain the company petition because of the pendency of the earlier suit for the same relief. Though, the Ld. Counsel for the appellant in principal agrees that he did institute a suit for the same relief but owing to the fact that he does not have any records available, they have been taken this as a rescue by him to maintain the company petition.

6. With this aspect of the matter, we are of the view that agitation of a particular grievance or agitating a cause, a litigant cannot be permitted to simultaneously seek two recourses for the grant of same relief, one by invoking of civil proceedings and during its pendency filing of a Company Petition under Section 59 of the Companies Act also. It exclusively on this ground when the proceedings were taken up before the Ld. NCLT. The Ld. NCLT has proceeded to pass an order that the company petition was directed to be closed on the ground that since there already happens to be a pre-existing suit instituted by the appellant. It would be open for the appellant to

pursue his remedies, which he has already availed and is pending consideration. The said direction given in the impugned order is leaving a liberty reserved for the petitioner to continue with the suit rather than proceeding with the simultaneous company petition under Section 59 of the Companies Act.

7. We are of the considered view that at this stage at which the company petition has been dismissed, it was simpliciter without venturing on the merits of the matter and exclusively on the ground because of the prior pendency of the Civil Suit preferred by the appellant on the same relief. Owing to the light of the embargo created by the Section 10 of the CPC, the proceedings of the company petition being subsequent in time to the initiation of earlier suit would not be tenable hence dismissal of the same by the impugned order does not suffer from any judicial vices, which could call for any interference by us in an exercise of our appellate jurisdiction under Section 421 of Companies Act. Accordingly, the company appeal stands dismissed. All interlocutory applications would stand closed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Arun Baroka]
Member (Technical)

[Indevar Pandey]
Member (Technical)

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