

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) No. 374 of 2026

IN THE MATTER OF:

Abhinandan Complex Private Limited & Ors.

...Appellant

Versus

Prakash More & Ors.

...Respondents

Present:

For Appellant : Adv. Kaustav Jalukdar, Adv. Arani Guha, Adv. Madhuri Pandey, Adv. Vishesh Kalra, Adv. Simran shadija, Advocates.

**For Respondents : Mr. Krishnendu Datta (Sr. Adv.), Mr. Vivek Jhunjhunwala, Adv. Pratik Shanu, Mr. Randeep Sachdeva, Adv. Vivek J., Adv. Pratik Shanu, Adv. Prashant Sodhi, Adv. Aryan Mishra, Adv. Mehul Bacchawat, Advocates for R14-20, R22-24, 28-31, 33-41, 43, Advocates.
Adv. Swapna Choukey Advocate for R1 to R12.**

ORDER
(Hybrid Mode)

06.10.2026

We have to begin by recording our extreme anguish with regard to the conduct and manner in which the Appellant has presented himself before this Tribunal while preferring the instant Company Appeal challenging the impugned order dated 21.08.2026, as passed by the Ld. National Company Law Tribunal, Guwahati Bench, in Intervention Petition (Comp. Act.)/1/GB/2026, which was preferred in C.P. No. 5/KB/2024. By virtue of the impugned order, the intervention application, being I&B Petition (CA 1) GB of 2026, preferred by the Appellant, has been rejected.

2. So far as the merit of the rejection order is concerned, it had been on the ground that, looking to the nature of the pleadings raised in the application preferred invoking Order I Rule 10 of the Code of Civil Procedure, if the application in its totality is taken into consideration, the application in itself has taken the shape of being more or less an impleader suit and would be having all the consequences flowing from the legal embargo created by Order VIII Rule 6(A) of the CPC. The Ld. Tribunal, while deciding the application, came to the conclusion that, because of the fact that the Appellant was claiming to have invested ₹16.71 crores between 2012–2014 based on an MoU dated 16.09.2013, that granted him a stake of 33.33 per cent in Goldstone Cements Limited. However, the grievance of the Appellant has been that the Jain and More Groups had functioned in a manner whereby they had siphoned the funds, and that this had been orchestrated in such a manner that the share allotment to their own entities had resulted in dilution, and the Appellant's stake admittedly had been reduced to 1.62 per cent. And it is an admitted case of the Appellant that, on account of the manner in which the Jain and More Groups have functioned, they have been excluded from corporate governance and never received the mandatory share certificates, and thus they had been wrongfully denied participation in a 2024 rights issue.

3. The said application has been rejected on the ground that the Appellant did not satisfy the conditions contemplated under Section 244 of the Companies Act, 2013 as they were not holding the percentage of shares that were required to be held by the Petitioner of the Company Petition in order to sustain the proceedings under Sections 241 and 242 of the Act.

4. Be that as it may. What is more surprising is that if we go through the findings that have been recorded by the Ld. Tribunal, and particularly go through the contents of Paras 4.3 and 4.4 of the impugned order itself, which read as under:

4.3 Furthermore, it is submitted that on 22.09.2024 the interveners herein have earlier filed Intervention Application for intervention in CP/5/GB/2024 bearing filing no 1806122002712024 which appears to be of same nature and character as present application, that petition was in defects and never moved on. For filing the present Intervention Petition, no leave was sought from this Hon'ble Tribunal. A copy of the prior application is annexed to the Reply as "Annexure C".

4.4 Also, the Interveners herein had filed 29.09.2024, a company petition bearing filing no 1806122002732024, inter-alia, under Sections 58, 59, 210, 213, 216, 241, 242, 257 of the Companies Act 2013 against the Respondent No.1 company in CP No.5/GB/2024 in respect of the same purported grievances which are sought to be ventilated in the present application. That Petition is also not made defects free. The CP under Section 241 & 242 of Companies Act, 2013 was duly served to the Jain group as reflected at page 69 of the reply affidavit. The said CP was served upon the Jain Group on 25.09.2024. A copy of the aforesaid Company Petition is attached to the Reply as "Annexure D".

5. The aforesaid paragraph itself speaks about the fact that the Appellant himself had earlier preferred an intervention application seeking his intervention to participate in the proceedings of the Company Petition, but due to non-rectification of facts, the same was closed in the light of the provisions contained under Rule 28(4) of the NCLT Rules, 2016. Rule 28(4) of the NCLT Rules provides for vesting of power with the Registrar that, if the notified defects are not removed, the proceedings in respect of the application thus preferred,

which has been notified to be defective, would come to an end. Sub-rule (4) of Rule 28, is extracted hereunder: -

28. Endorsement and scrutiny of petition or appeal or document. –

(4) Where the party fails to take any step for the removal of the defect within the time fixed for the same, the Registrar may, for reasons to be recorded in writing, decline to register the pleading or document.

6. In these eventualities, Sub-rule (4) of Rule 28, gets attracted because of non-rectification of defects, and it will amount to the proceedings having been laid to rest, and no subsequent application for the same nature of relief would be maintainable.

7. In accordance with the Rules, if the defects are not rectified, the proceedings drawn by him automatically lead to a closure and, more importantly, if we consider the observations made in Para 4.4 of the Impugned Order, it has been made clear that the Appellant preferred a Company Petition, as referred to in the said Paragraph, which too was closed due to non-rectification of defects.

8. In that eventuality, when the principal Company Petition has been closed in the light of Sub-Rule 4 of Rule 28, the Appellant's right to re-agitate would stand closed, either by way of a Company Petition or even by way of filing any Intervention Application.

9. But what is more surprising is that the aforesaid two facts of filing of an intervention application and filing of a Company Petition, and the same having been closed, are not the facts which have been disclosed by the Appellant in

the instant Company Appeal. Non-disclosure of these two vital facts will have a direct bearing on consideration of the Company Appeal itself on its merits, as against the rejection of the present Intervention Application, as those were the necessary facts which were required to be brought on record by the Appellant, which have not been deliberately disclosed by the Appellant for the reasons best known to him, and this will amount to an intentional concealment. The Appellant does not deserve to be even heard; that is what has been laid down in the judgment reported by the Hon'ble Apex Court in 2025 INSC 17, **M/S Maxim India Integrated Circuit Design Pvt. Ltd. Vs. Andappa (D) LRs & Ors.**, wherein the relevant paragraph is extracted hereunder: -

*“11. In the contextual situation, it is relevant to refer to a decision of this Court in **Ramjas Foundation v. Union of India**, wherein this Court held that if a litigant did not come to the Court with clean hands, he is not entitled to be heard and indeed such a person is not entitled to any relief from any judicial forum.”*

10. The said conduct of the Appellant is deprecated and that in itself disentitles him to sustain the instant Company Appeal, as against the impugned order of rejection of the Intervention Application and, more importantly, because of the fact, that when his own Company Petition that was preferred by him, as well as his known to the fact when his earlier intervention, since has attained its legal death, it would automatically close as per rules. The opportunity for the Appellant to file any intervention application thereafter.

11. Owing to the aforesaid facts, the Company Appeal lacks merits. The same is dismissed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Arun Baroka]
Member (Technical)

[Indevar Pandey]
Member (Technical)

MT/RR