
(2011) 09 MP CK 0015

In the Madhya Pradesh High Court

Case No : Company Appeal No. 1 of 2010

Bhaskar Publication and Allied Industries Pvt. Ltd. and Others	APPELLANT
Vs	
Smt. Kishori Devi Agarwal and Others	RESPONDENT

Date of Decision : 21-09-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 22 Rule 3, Order 41 Rule 14(3), 148, 151
Companies (Amendment) Act, 1988 — Section 67, 67
Companies (Court) Rules, 1959 — Rule 2(4), 3, 4, 6, 9
Companies Act, 1956 — Section 397, 398, 399, 400, 401
Limitation Act, 1963 — Section 5

Citation : (2012) 1 MPHT 57

Hon'ble Judges : Sheel Nagu, J;S.N Aggarwal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S.N. Aggarwal, J.—This appeal u/s 483 of the Companies Act. 1956 filed by the appellants is directed against the order of the learned Company Judge, dated 13th September, 2010, in MCC No. 63 of 2010 whereby the company petition of the respondents (C.P. No. 2/88) dismissed in default for non-prosecution vide Court's order dated 7th September, 2005 read along with the order of the Registrar dated 28th June, 2006, has been restored for hearing on merits after condoning the delay of 1309 days in filing of the restoration application.

2. Briefly stated the fact of the case giving rise to this appeal are that appellant No. 1 Company "M/s Bhaskar Publication & Allied Industries Private Limited" is a company incorporated under the Companies Act, 1956 and is stated to be engaged in the business of publication of a news paper "Dainik Bhaskar" situated at Gwalior. The respondents along with Bishambhar Dayal Agrawal (dead), Dwarka Prasad Agrawal (dead) and appellant Nos. 2, 3 and 5 were stated to the Directors of the appellant company at the time the respondents had filed Company Petition (C.P. No. 02/1988) against the appellants under Sections 397, 398, 402 and 403 of the Companies Act. 1956 read with Rule 9 of the Companies

(Court) Rules, 1959. The said petition was filed by them in the High Court on 7th April, 1988. It was alleged in the petition that appellant No. 2 had fraudulently increased the authorised share capital of the company from Rs. 3,39,700/- to Rs. 10,00,000/- and the said increased authorised capital was illegally allotted by the Company to appellant No. 2 without convening any meeting and without any consideration. It was further alleged that the said fraudulent allotment of shares to respondent No. 2 was done to reduce the share holding of the respondents into the minority and gain control over the management of the company and to oust the respondents from the management of the company. It was also alleged in the petition that the appellant No. 2 had not paid off the loans, which were raised in favour of the company against personal FDRs of the respondent Nos. 1 and 2 from various Nationalised Banks. On the basis of the facts pleaded by the respondents in their Company Petition, they had prayed for the following reliefs in their Company petition filed in the High Court on 7th April, 1988:--

- (i) Declare that only six persons mentioned in the petition were alone Directors of the Company;
- (ii) Declare that the increase in authorised share capital of the company and consequent allotment of shares to respondent No. 2 was illegal and void;
- (iii) Declare that appellant No. 2 was unfit and disqualified from managing the affairs of the company;
- (iv) Restrain appellant Nos. 2, 3 and 4 from interfering in the management of the affairs of the company by the petitioners;
- (v) Appoint receiver for taking custody and inspection of books of the company.

3. Shortly after the above mentioned Company petition was filed by the respondents in the High Court, the Companies Act, 1956 was amended by Companies (Amendment) Act, 1988 and the amendment became effective from 10th June, 1988. As per amended provisions contained in Section 67 of the Companies (Amendment) Act, 1988, powers of the High Court to deal with company petitions under Sections 397 to 405 of the Companies Act, 1956 were transferred to the Company Law Board. It was provided that after the date of amendment, any petition to be filed under Sections 397 to 405 of the Companies Act, 1956 shall be filed before the Company Law Board. However, Section 68 of the Companies (Amendment) Act, 1988 contains a transitional provision according to which any matter or proceedings under the Companies Act, 1956 pending in the High Court immediately prior to the commencement of the Companies (Amendment) Act, 1988 were to continue and disposed of by the Court in which those proceedings were pending.

4. In view of the aforementioned transitional provision contained in the Companies (Amendment) Act, 1988, company petition under Sections 397, 398, 402 and 403 of the Companies Act, 1956 filed by the respondents (C.P. No. 2/88) continued in the High Court before the learned Company Judge as it was

instituted prior to the commencement of the Amendment Act of 1988.

5. Two of the petitioners namely petitioner No. 2 Bishambhar Dayal Agrawal and petitioner No. 4 Dwarka Prasad Agrawal had died during the pendency of the company petition and consequent upon their death, name of Dwarka Prasad Agrawal who died on 20th July, 1993 was deleted from the array of the petitioners in the company petition vide order of the Company Judge, dated 25th November, 1994. Applications filed for substitution of legal heirs of late Bishambhar Dayal Agrawal were dismissed on merits by the Company Judge vide order dated 26th February, 2003. It may be mentioned that the names of legal heirs of both Dwarka Prasad Agrawal and Bishambhar Dayal Agrawal were already on record either as petitioners or respondents in the case.

6. Subsequent thereto, an application (I.A. No. 725/03) was filed only by appellant No. 2 for dismissal of the company petition on the ground that the petition on behalf of the remaining petitioners after the death of Bishambhar Dayal Agrawal and Dwarka Prasad Agrawal was not maintainable as they did not possess minimum requisite 1/10th share holding of the total issued share capital of the company "Bhaskar Publication & Allied Industries Ltd." This I.A. of the appellants was dismissed by the Company Judge vide order dated 11th July, 2003, and it was held that the petition as filed on the date of its representation was maintainable and as such it cannot be dismissed on account of subsequent event, i.e., death of one of the petitioners. The Company Judge while dismissing I.A. No. 725/03 of the appellants had placed reliance on two judgment of the Hon'ble Supreme Court in Rajahmundry Electric Supply Corporation Ltd. Vs. A. Nageswara Rao and Others, and M/s World Wide Agencies Private Limited Vs. Margarat T. Desor, AIR 1990 SC 7371. After dismissal of the appellants' I.A. No. 725/03 by the Company Judge vide his order dated 11th July, 2003, the case was adjourned for hearing on merits for 22nd August, 2003, 26th September, 2003, 7th November, 2003 and then for 9th January, 2004. On 9th January, 2004, the Company Judge observed in the proceedings of the said date that some of the parties have died and directed the Counsel for the petitioners (respondents herein) to move appropriate application within a week's time. Pursuant to the said directions of the Company Judge, application (I.A. No. 1430/04) under Order XXII Rule 3, CPC was filed by the petitioners (respondents herein) for substitution of legal heirs of deceased respondent No. 3 Shrimati Sharda Agrawal. Prayer was made for substitution of her sons Shri Girish Agrawal, Shri Pawan Agrawal and Shri Sudhir Agrawal as her legal heirs. Out of these three sons of late Shrimati Sharda Agrawal, one of them namely Shri Sudhir Agrawal was already arrayed as respondent No. 4 in the petition. However, the Company Judge vide order dated 27th February, 2004 directed issuance of notices to the proposed legal heirs on payment of process fee. As the process fee was not paid by them within the stipulated time given by the Court, the case was listed by the Registry before the Company Judge on 7th September, 2005 for orders on default in filing of process fee. On 7-9-2005 following order was passed by the Company Judge :--

7-9-2005

Parties through their Counsel.

The case is listed today for orders in default of P.F.

Counsel for petitioner is granted a week's time to pay P.F. If P.F. is not paid within a week then petition shall be liable to be dismissed without reference to this Court.

(Emphasis supplied)

7. As the process fee was not paid by the petitioners (respondents herein), within the extended time of one week given to their, vide order dated 7th September, 2005, their petition was dismissed by the Registrar vide order dated 28th June, 2006, which is extracted below :--

28-6-2006

Due to non-compliance of Hon"ble Court order dated 7-9-2005, this petition dismissed on 15-9-2005 without reference to this Court.

8. Thereafter, the respondent Nos. 1 and 2 had filed two applications before the Company Judge on 26th February, 2010, one for restoration of their company petition and the second for condonation of delay of 1309 days in filing of restoration application. Both these applications have been allowed by the Company Judge vide order dated 13th September, 2010, aggrieved wherefrom, the appellants have preferred the present appeal.

9. We have heard Shri U.K. Chaudhary, learned Senior Counsel appearing on behalf of the appellants, Shri Prashant Chandra, learned Senior Counsel appearing on behalf of respondent No. 1 and Shri Sunil Jain, learned Counsel appearing on behalf of respondent No. 2. We have also perused the record and written submissions filed by the Counsels for the parties before us.

10. Learned Senior Counsel appearing on behalf of the appellants has made two fold arguments in support of the present appeal and they are as under-;--

(i) In view of the provisions contained in Section 68 of the Companies (Amendment) Act, 1988 the High Court ceased to have jurisdiction after the company petition (C.P. No. 2/88) was dismissed in default for non-prosecution vide order dated 7th September, 2005 read alongwith the order of the Registrar dated 28th June, 2006. It was submitted that no proceedings were pending before the High Court in C.P. No. 2/88 on the date applications for restoration and condonation of delay were filed by the respondents, i.e., on 26th February, 2010. In support of the said contention, he has placed reliance on two Single Bench judgments, one of Bombay High Court in Kishore Y. Patel and others Vs. Patel Engineering Co. Ltd. and others, reported as 1994 (79) Comp Cas 53 and second of Delhi High Court in Shri A.P. Jain Vs. Faridabad Metal Udyog, . He has also placed reliance on one more judgment of Division Bench of Delhi High Court

in Marriott International Inc. and Others Vs. Ansal Hotels Ltd. and Another,

(ii) That even if it is assumed that the High Court had jurisdiction to entertain the restoration application, still the petition could not have been restored by the Company Judge as the respondents have failed to show sufficient cause for condonation of delay of 1309 days within the meaning of Section 5 of the Limitation Act, 1963.

11. On the other hand, learned Senior Counsel appearing on behalf of respondent No. 1 has argued that the order dated 28th June, 2006 passed by the Registrar by which the company petition (C.P. 2/88) was dismissed for noncompliance of the order of the Court dated 7th September, 2005 is without jurisdiction as according to him, the Registrar had no powers or jurisdiction to dismiss the petition on any ground whatsoever. It is submitted that the powers to dismiss the petition lies exclusively with the Court and not with the Registrar. Reliance in support of this contention is placed by the learned Senior Counsel for respondent No. 1 on powers, duties and functions of the Registrar provided in the Madhya Pradesh High Court Rules, 2008 particularly Rule 4 contained in Chapter 5 which provides that the Registrar has no power to dismiss the petition on any ground whatsoever. It is further contended by the learned Senior Counsel appearing on behalf of respondent No. 1 that even if the respondents had not complied with the orders of the Company Judge dated 7th September, 2005 by not filing the process fee for notice on their I.A. No. 1430/04, their company petition could not have been dismissed in its entirety because some of the legal heirs of deceased respondent No. 3 were already on record sufficiently representing the interest of other legal heirs. Reliance in support of this contention was placed on a judgment of the Hon'ble Supreme Court in the case of S. Amarjit Singh Kalra (dead) by Lrs. and Others and Smt. Ram Piari (dead) by L.Rs. and Others Vs. Smt. Pramod Gupta (dead) by Lrs. and Others, . The submission of the learned Senior Counsel appearing on behalf of the respondent No. 1 is that the petition of the respondents was wrongly dismissed by the Registrar and, therefore, according to him, the Company Judge vide impugned order dated 13th September, 2010 has simply corrected the apparent mistake of the Court by restoring the company petition for hearing on merits. According to the learned Senior Counsel the delay in filing of restoration application has been adequately explained by the respondents in their application for condonation of the delay and the order passed by the Company Judge condoning the delay is merely a procedural order which should not be interfered with by this Court as the said order does not touch upon the merits of the controversy. Learned Counsels appearing on behalf of the respondents have prayed for the dismissal of the present appeal.

12. In rejoinder, learned Senior Counsel appearing on behalf of the appellants has reiterated his argument that whether the order dismissing the company petition passed by the High Court was right or wrong, the High Court ceased to had jurisdiction in the matter in view of the provisions contained in Section 68 of

the Companies (Amendment) Act, 1988 and was, therefore, not competent to entertain the applications filed by the respondents for restoration of the company petition and for condonation of delay.

13. We have given our serious thought to the above rival arguments advanced by the learned Senior Counsels for the parties. We are sorry, on giving our anxious consideration to the matter, we could not persuade ourselves to agree with any of the submissions put forward before us by the learned Senior Counsel appearing on behalf of the appellants for reasons to follow hereinafter.

14. In view of the rival submissions of the learned Senior Counsels for the parties, the first and the foremost question that arises for our consideration is the powers of the High Court to entertain the restoration application in view of the provision contained in Section 68 of the Companies (Amendment) Act, 1988. Section 68 of the Companies (Amendment) Act, 1988 reads as under :--

68. Transitional provisions.-- (1) Any matter or proceeding which, immediate before the commencement of the Companies (Amendment) Act, 1988 was pending before any Court shall, notwithstanding that such matter or proceeding would heard by the Company Law Board after such commencement, be continued and disposed of by that Court after such commencement in accordance with the provisions of the principal Act as they stood immediately before such commencement.

15. It is apparent from a plain reading of Section 68 extracted herein above that a petition that was pending in the High Court immediately prior to the commencement of the Amendment Act of 1988 was to continue and disposed of by the High Court. The expression "disposed of contained in Section 68 necessarily implies that a petition that was pending in the High Court was requited to be disposed of by adjudicating the rival contentions of the parties on merits. The argument of the learned Senior Counsel that after dismissal of the company petition, restoration application ought to have been filed before the Company Law Board by virtue of the amendment having been incorporated in the interregnum is not tenable. It appears that the said submission has been made only to be rejected in as much as no Tribunal, Board or Subordinate Court can look into the correctness, legality or validity of the orders passed by the High Court. We feel that even otherwise, it is the first principle of law that the Court which had dismissed the petition in default for non-prosecution along is competent to deal with its restoration. It may be noted that on the date the company petition was dismissed by the order of the Registrar dated 28th June, 2006 for non-compliance of the Court's order dated 7th September, 2005, the case was pending in the High Court and the parties were litigating with each other for more than 18 years. In our opinion, it would be wholly unreasonable and unjust to give a narrow interpretation to Section 68 of the Companies (Amendment) Act, 1988 that after dismissal of the company petition for non-prosecution, the restoration ought to be filed before the Company Law Board. Such an interpretation to the expression "continued and disposed of used in

Section 68 of the Companies (Amendment) Act, 1988 is bound to yield unjust results. This could have never been the intention of the Legislature in making transitional provision by providing for continuance and disposal of petitions pending in the High Court immediately prior to the commencement of the Companies (Amendment) Act, 1988. In this context, it shall be relevant to refer to the provisions of Rules 2 (4), 6 and 9 of the Companies (Court) Rules, 1959 (for short "Rules") which are extracted herein below :--

Rule 2. Interpretation.-- In these rules, unless the context or subject-matter otherwise requires,--

(4) "Code" means the Code of Civil Procedure, 1908.

Rule 6. Practice and Procedure of the Court and provisions of the Code to apply.-- Save as provided by the Act or by these rules the practice and procedure of the Court and the provisions of the Code so far as applicable, shall apply to all proceedings under the Act and these rules. The Registrar may decline to accept any document which is presented otherwise than in accordance with these rules or the practice and procedure of the Court."

"Rule 9. Inherent powers of Court.-- Nothing in these Rules shall be deemed to limit or otherwise affect the inherent powers of the Court to give such directions or pass such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

16. It may be seen from the above referred rules that Rule 9 is similar to Section 151 of the Code of Civil Procedure, 1908, which provides that nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Court to give such directions or pass such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court. A combined reading of Rules 6 and 9 of the Rules indicates that the inherent powers of Company Court can be exercised in the manner provided in Section 151 of the Code of Civil Procedure, 1908 except in cases where the Act and Rules provide otherwise. We are of the view that a litigant whose petition is dismissed by the Court for non-prosecution has two fold remedies with him. He can either apply for restoration or even file a fresh petition on the same cause of action. A litigant like the respondents herein who had spent more than 18 years in litigation by the time his petition was dismissed in default for non-prosecution cannot be compelled to take recourse to fresh proceedings instead of applying for restoration on showing sufficient cause. We are further of the view that the proceedings taken by a litigant for restoration of his petition dismissed for non-prosecution are in the nature of procedural proceedings in aid of substantive justice. Laws and procedures are meant to regulate in assisting and aiding the object of doing substantial justice and not the foreclosure of adjudication of substantial rights of a citizen. Procedure has always been viewed as a handmaid of justice and not meant to hamper the cause of justice or sanctify miscarriage of justice.

17. We have considered all the three judgments on which reliance is placed by the learned Senior Counsel for the appellants. None of these three judgments is applicable to the facts of the present case. The judgment of the Single Bench of Delhi High Court in A.P. Jain's case (supra), dealt with a case where earlier petition filed under Sections 397 and 398 of the Companies Act, 1956 for oppression and mismanagement was withdrawn from the High Court and thereafter, a fresh petition was filed before the Company Law Board. It was in that context it was observed by the Single Bench of Delhi High Court that after withdrawal of the company petition under Sections 397 and 398 of the Companies Act from the High Court, it cannot be said that any proceedings in the earlier company petition were pending in the High Court. The principle laid down by the Single Bench of Bombay High Court in Patel Engineering's case (supra), that Rule 9 of the Companies (Court) Rules, 1959 can be pressed into service only if an application made before the Company Judge is found maintainable under some specific substantive provisions of the Act, has hardly any application to the facts of the present case. The Division Bench judgment of the Delhi High Court in Marriott International Inc's case (supra), also has no application to the facts of the present case because that case dealt with an international arbitral award in arbitration held outside India.

18. Having considered the various pros and cons of the arguments of the learned Senior Counsel appearing on behalf of the respondents regarding powers of the High Court to entertain restoration application in view of the provision contained in Section 68 of the Companies (Amendment) Act, 1988, we are left with no doubt in our mind except to hold that the High Court which had dismissed the company petition in default for non-prosecution is fully competent to entertain and decide the restoration application-filed by the aggrieved party.

19. We shall now test whether the Company Judge was justified in passing the impugned order restoring the company petition for hearing on merits after condoning the delay of 1309 days that occurred in filing of the restoration application. A perusal of the impugned order of the Company Judge reveals that the Company Judge has restored the company petition to its original number as he was satisfied with the sufficient cause shown by the respondents for condonation of the delay in filing the restoration application and also regarding the default on their part in not taking steps for filing of process fee directed to be filed vide order dated 7th September, 2005. We agree with the reasonings given by the Company Judge in the impugned order for restoration of the Company petition and for condoning the delay. Additionally, it shall be significant to note that the order dated 28th June, 2006 by which the company petition of the respondents was dismissed for noncompliance of Court's order dated 7th September, 2005 is of the Registrar. The learned Senior Counsel appearing on behalf of respondent No. 1 has contended that the order of dismissal of the company petition suffers from a jurisdictional error as the Registrar had no power to dismiss the petition for whatsoever reasons. In order to appreciate this argument, we consider it necessary to refer to the Madhya Pradesh High Court

Rules, 2008, which deal with the powers, duties and functions of the Registrar. They are provided in Chapter 5 of the aforesaid Rules and the relevant portion thereof is extracted herein below :--

(A) Powers, Duties and Functions of the Registrar.-- (1) The following powers in relation to civil and criminal proceedings, in addition to those conferred by other rules are delegated to the Registrar. (a) *** *** ***

(b) *** *** ***

(c) to decide all matters relating to service of notice or other processes and to pass orders dispensing with notice under Order 41 Rule 14 (3) (Madhya Pradesh High Court Amendment, dated 16-9-1960) or (4) of the Code of Civil Procedure, 1908 or under any other enactment for the time being in force;

*** *** ***

(y) to pass orders in all matters in civil and criminal cases pertaining to default of process fee, paper book costs, furnishing of address in respect of service of notice, non-compliance with Registrar's orders in respect of notice matters; submission of service report on affidavit in case of "humdust" service; default of identical copies, default of security amount, service of notice, default of publication charges and non-compliance of the Court's orders and default of appearance of accused persons who are on bail, provided that every such case in which the Registrar is of the opinion that the default should not be condoned shall be placed for orders before the appropriate Bench;

(z) to pass orders on non-appearance of accused persons on bail:

Provided that every such case in which the Registrar is of the opinion that the default should not be condoned shall be placed for orders before the appropriate Bench;

(2) Where any of the directions of the Registrar, made under sub-rule (1) is not complied with, the Registrar shall post the matter before the Court, which may, if deemed fit in the circumstances of the case, extend time for rectification of the defect.

(3) The Registrar may, at his discretion, refer any matter under sub-rule (1) to the Court for orders.

(4) Nothing in this rule shall be deemed to authorise the Registrar to make an order of dismissal of a proceeding for default or for any other reason or empower the Registrar to decide a contested application.

In the event of a written contest to such application, it shall be placed before the Court.

(Emphasis supplied)

20. It may be seen from the Court's order dated 7th September, 2005, by which

the Court had given seven days" time to the respondents for filing of process fee for notice of I.A. No. 1430/04 that what was mentioned in the Court's order of the said date was that in case the respondents would fail to file process fee within seven days, then their petition shall be liable to be dismissed. The expression "liable to be dismissed" used in the Court's order dated 7th September, 2005, cannot be interpreted to mean that even if the respondents had justifiable cause for extension of time for filing of process fee for which time was given to them, the Court was completely powerless from extending the time for the purpose; In fact, Section 148 of the Code of Civil Procedure, 1908, which applies to the proceedings before the Company Judge by virtue of Rule 6 of the Companies (Court) Rules, 1959 gives sufficient powers to the Court to extend time given by it earlier. This was possible in the present case had the Registrar listed the case before the Court for noncompliance of its order dated 7th September, 2005. The Registrar instead of listing the case before the Court chose to dismiss the petition himself vide his order dated 28th June, 2006, i.e., after about nine months of Court's order dated 7th September, 2005. In view of the provisions contained in Rule 4 of Chapter 5 of the Madhya Pradesh High Court Rules, 2008, it is apparent that the order dismissing the respondents' petition in default for non-prosecution of Court's order dated 7th September, 2005 is without jurisdiction and can only be termed as an error of the Court. The legal maxim "*Actus curiae neminem gravabit*" (an act of Court shall prejudice no one) is a maxim of law which comes into play in such situations. We are of the view that even if no application was filed by anybody for restoration of the petition, still it was the duty of the Court to rectify its mistake in exercise of its suo motu powers. We do not shy in saying that the order dated 28th June, 2006 passed by the Registrar by which company petition of the respondents was dismissed for non-compliance of Court's order dated 7th September, 2005 suffers from mistake of the Court, which needs to be corrected by the Court no sooner the mistake come to its notice. In fact, the order of the Registrar dated 28th June, 2006 is a non est order and if that is so, the proceedings in company petition of the respondents are deemed to have continued and were liable to be decided on merits. This we are saying consciously as we are of the view that even if steps for substitution of all the legal heirs of respondent No. 3 were not taken by the petitioners (respondents herein), still their petition was liable to be decided by the Company Judge on merits in view of his earlier order on the same issue in this very case dated 11th July, 2003.

21. In the present case, the respondents had filed application for restoration alongwith an application for condonation of delay which after hearing Counsels for both the sides was allowed by the Company Judge vide order dated 13th September, 2010. The delay on the part of respondent Nos. 1 to 2, if any, in moving the restoration application has been adequately compensated by the learned Company Judge by awarding cost of Rs. 40,000/- against respondent Nos. 1 and 2. In our opinion, the impugned order passed by the Company Judge is merely a procedural order, effect whereof is that the company petition filed by

the respondents shall be heard and decided on merits. The impugned order, in our view, does not in any manner, affects the rights and liabilities of the parties, We do not find any perversity, illegality or arbitrariness in the impugned order passed by the Company Judge which require our interference in the present appeal. In our opinion, the discretion has been rightly exercised by the Company Judge in condoning the delay and restoring the company petition for hearing and deciding the same on merits.

22. For the foregoing reasons, we do not find any merit in this appeal which fails and is hereby dismissed but with no order as to costs. However, having regard to the fact that the company petition filed by the respondents is pending adjudication since 1988, we request our brother Hon''ble the Company Judge to expedite the hearing and make an endeavour to dispose it of as expeditiously as possible. The parties are directed to appear before the Company Judge for directions on 21st October, 2011.