**(2025) 01 NCLAT CK 1676**

**In the National Company Law Appellate Tribunal**

**Case No :** Comp. App. (AT) No.17 of 2025

**Brij Mohan Khanna @APPELLANT @ Hash Khanna Paper Mills Ltd and Ors.**

**Date of Decision :** 24-01-2025

**Acts Referred:**
Companies Act 2013 — Section 241, 242

**Citation :** (2025) 01 NCLAT CK 1676

**Hon'ble Judges :** Yogesh Khanna Member (T);Ajai Das Mehrotra Member (T)

**Bench :** Division Bench

**Advocate :** Mukul Rohatgi, Krishnendu Dutta, Nikhil Rohatgi, Arjun Pall, Harshit Gupta, Puneet Bali, Nitin Mishra, Rishab Jain, Munisha Gandhi, Aditya soni, Vedika Gandhi, Vaibhav Sharma, Anand Chhibar, Swapnil Gupta, Ujjal Banerjee, Anmol Sehgal, Sajal Jain

**Final Decision :** Dismissed

## Judgement

24.01.2025: This appeal is against an impugned order dated 08.01.2025 passed by the Ld. NCLT, Chandigarh in Company Petition NO.2/CHD/Hry/2025. The brief facts as alleged by the appellant are as follows:-

a) In the year 1965 M/s Khanna Papers was started by the Appellant and in the year 1985 Respondent No.1 company was incorporated by appellant alongwith his brothers;

b) in the year 2012-2013 the appellant and Respondent No.7 viz. the wife of the appellant gifted their shares to their sons viz. respondent No.3(elder) and respondent No.8 (younger)and thus the Respondent No.3 and Respondent No.8 got 33% shareholding each in Respondent No.1 company;

c) in the year 2018 the appellant and Respondent No.7 filed a suit against their sons viz. respondent No.3 and 8 for cancellation of the gifts made to them. The suit was filed under The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 as their sons attempted to oust them from the Respondent No.1 Company;

d) on 17th September, 2022 the appellant (17.85% shares) and Respondent

No.3 (33% shares as gifted) pooled their shareholding in a Trust on the assurance the Appellant shall be the Principal Trustee for lifetime. On 2.5.2023 the case under The Maintenance and Welfare of Parents and Senior Citizen Act, 2007 was also withdrawn on an assurance in a Compromise Deed filed before the Hon'ble High Court of Punjab and Haryana that the Appellant shall be lifetime Principal Trustee of the Respondent No.2 Trust and Chairman of Respondent No.1 company. On 27.12.2024 Respondent No.3 unilaterally purported to amend the Trust Deed to replace Appellant with himself as a Principal Trustee, entitled to vote on 51.84% share of the Respondent No.1 Company.

e) in previous CP 6/2024 filed by the Respondents No.7 and 8, the Appellant rather supported the stand taken by his elder son Respondent No.3. However, on 27.12.2024 as alleged, on a short notice of four minutes the Respondent No.3 convened a Board Meeting at 1.30 PM and all managerial powers of Appellant were revoked and suspended;

f) on that day the appellant sent an email to Responder No.3 asking him to meet to settle all issues but Respondent No.3 communicated to appellant about his replacement with himself as a Principal Trustee in the Trust and even sent an email through the HR Department stating interalia the appellant has been relieved of his executive duties due to his ill health. The appellant disputed his replacement and asserted himself as Principal Trustee for his lifetime. Such communication qua replacement of appellant was also made to independent directors of the Respondent No.1 Company, hence the appellant asked the existing Board to resign;

g) as per Trust Deed the right to amend the Trust Deed was with Respondent No.3. The appellant allege the Respondent No.3 illegally amended the Trust Deed and removed him as a Principal Trustee and appointed himself for life. A Civil Suit was filed by the appellant wherein the amendment to the Trust Deed is stated to be stayed, though the said order has not been filed on record.

h) Further on 30th December, 2024 AGM of the company was conducted and the Respondent No.8 as 33.81% shareholder, voted on the agenda items for the AGM through email alongwith Respondent No.7 as 14.35% and the appellant being Principal Trustee of the Trust representing 51.16% shareholding. Respondent No.7 as Chairman of the AGM, then declared voting results of AGM through email. Thereafter on 30th December, 2024 Board Meeting was convened for calling EGM at a shorter notice and three directors were confirmed/appointed and two directors were removed;

3. During the course of arguments, ever, the learned counsel for the Respondent also referred to a family settlement dated 27th August, 2022 wherein three companies were given to Respondent No.8 alongwith Rs.150 crore for his exit from Respondent No.1 company and the amount stood paid. It was argued under the settlement loans of about more than Rs.900 crore

standing against Respondent No.1 and its subsidiaries were also taken over by

Respondent No.3. Even a demerger application was also filed wherein Respondent No.8 the younger son was to affirm his exit from Respondent companies, but then everything changed.

4. Heard.

5. Before coming to the rival contentions we find the impugned order notes of an order dated 19.12.2024 passed by Ld. NCLT with consent as follows:

“The present application has been filed under Rule 11 of NCLT Rules, 2016.

However, during the course of arguments it is conceded by learned counsel for the respondent that the said agenda item No.3 will be amended and she will be considered for reappointment, in case if she is not reappointed then it is agreed upon by learned counsel for respondent that the stop gap arrangement will be done by appointing another Director from the list of three persons with their CVs which will be provided by the applicant through her counsel during the course of day and it is agreed upon that tomorrow a Board Meeting will be held for amending the agenda item for considering reappointment of Renu Khanna. With these observations Comp.Appl./274(CH)2024 is disposed of and on request of learned counsel for applicant, he is at liberty, to file fresh IA on other issues involved if advised so.”

6. Further on 27.12.2024 yet another order was passed by the Ld. NCLT with consent as under:-

The present Company Application has been filed by the Applicants under Rule 11 of NCLT Rules 2016, in the Main Petition bearing CP No.6/Chd/Hry/2024 filed under Sections 241-242 of the Companies Act, 2013 listed on 09.01.2025, seeking directions mainly against respondent Nos. 1 to 4. The Applicants have prayed for restraining the Respondents from passing or giving effect to any resolution preventing the Applicant No.2 (however, it is stated by learned senior counsel for the applicants that Applicant No. 2 is inadvertently written as Applicant No.1 in prayer Clause A of the application and the same is also admitted by the learned senior counsel for the respondents during the course of arguments) from casting votes on 89,72,301 (33.81%) shares held by Applicant No.2 in the AGM scheduled on 30.12.2024 and in all subsequent general meetings. Heard. During the course of the arguments, it is agreed by learned senior counsels for both the parties that applicants would not oppose the agenda item No. 10, 11, 15 and 16 in the AGM to be held on 30.12.2024 and they would raise no objection on the appointment of the nominee director of the lending banks/financial institutions and reappointment of independent directors. However, in respect of reappointment of independent directors, it would be a stop gap arrangement, since the matter is partly heard and has been listed for final hearing on 09.01.2025. It is also stated by learned senior counsel for the respondent that the board meeting fixed on 28.12.2024 will be held as per schedule, but the voting rights of the applicant No. 2 will not be freezed in view of his agreeing to appointment of the nominee director and reappointment of independent directors as stated above.

7. We also find a Power of Attorney, allegedly executed by the appellant herein in favour of one Brij Raj Singh (not connected with Respondent No.1) for this appeal and it bear the thumb impression of appellant. It is alleged Respondent No.8 has taken over the custody of the appellant, who is ill and now respondent No.8 is manuvering the appellant to his own interest. Admittedly, an earlier company petition filed by Respondents No.7 and 8 is still pending against the appellant (father) and Respondent no.3 herein and final arguments are going on. During the pendency of such earlier petition, this petition has been filed on behalf of the Trust and Respondent No.3 under section 241-242 of the Companies Act, 2013 alleging oppression and mismanagement against all others.

8. From the above facts it clearly appears there exist extreme hostilities between entire family members and the Ld. Tribunal has also noted about the disputes inter se and went on to say its earlier orders of dated 19th December, 2024 and dated 27.12.2024 have not been complied with by either of the parties and both groups are trying to protect their own interest by changing management at their own will. It is to be noted the amendment to Trust Deed was also challenged before Civil Judge (Junior Division), Amritsar in CIS No.CS/17/2025 in Brij Mohan Khanna Vs Rahul Khanna wherein the following directions have been issued;

"Accordingly, at this stage the amendment done on 27.12.2024 cannot be allowed to be carried on in implications/application in other words operation of amendment dated 27.12.2024 is required to be stayed till further decision about it's legality. As such till the further order the operation of the amendment dated 27.12.2024 done in the trust deed dated 17.09.2022 done by Rahul Khanna etc. stands stayed i.e. till the written statement is filed in this case and arguments are more deeply is advanced.

9. In another connected matter viz. Brij Mohan Khanna and Rahul Khanna Family Trust Vs Brij Mohan Khanna etc. CIS No.CS/20/2025 the Ld. Civil Judge, Junior Division, Amritsar has observed as under:-

"In light of the order already passed in the connected case the Court is also aware of the fact that trust was created for the benefit of the beneficiaries which are plaintiffs in this case, therefore, even the defendant Brij Mohan Khanna is also directed and reminded of his duties contained in the original trust deed and is directed not to commit any such act which is not for the benefit of the beneficiaries."

10. In the context of disputes raised by either side, the Ld. NCLT thought it fit to intervene due to alleged misconduct of parties who acted in violation of earlier two orders dated 19.12.2024 and 27.12.2024, passed with consent. It was only in fitness of circumstances the Ld. NCLT had acted in the interest of Respondent No.1 company to order status quo ante qua the Board of Directors and

shareholding of Respondent No.1 as on 19.12.2024 and directed it be maintained only till Ld. NCLT hear the matter finally on 27.01.2025.

11.. The Ld. NCLT has also given an opportunity to both the parties to complete their pleadings prior to 27.01.2025. Thus considering the facts on record, especially the conduct of both parties we do not wish to interfere in the impugned order as we find both parties are trying to take control of Respondent No.1 company by whatever means.

12.. The impugned interim order rather serves to maintain critical corporate stability. It preserves the legally constituted board, including independent directors, ensures uninterrupted banking relationships, and protects Respondent No.1 company's record and assets. Most notably, it maintains the Appellant's own position as a director of Respondent No.1. The interim order thus not only prevents an illegal takeover but also protects the interests of 2500 employees, banking relationships, and Respondent No.1 company's operational stability.

13. This Tribunal in Archer Power System Pvt Ltd V. Cascade Energy Pvt Ltd and Or has upheld a similar order restoring status quo ante pending the company petition and has held as follows:-

"41….. similarly the status quo as made is only with a view to regulate the conduct of the company's affais during the pndncy of the case so that no contesting party takes the advantage during the period detrimental to the other party. The status quo restored as on 27.04.2017 (date of petition) as directed by the NCLT Chennai till the matter is under consideration cannot be found faulted with>"

14. The impugned order has been passed by the Ld. NCLT in exercise of its powers under Section 242(4) of the Act, whereby it is empowered to make any interim order it thinks fit for regulating the conduct of the company pending the final hearing of a petition filed under Section 241-242 of the Act. Thus we are not inclined to interfere in the interim order of Ld. NCLT. The appeal is accordingly dismissed.

15. Pending applications, if any, are also disposed of.