
(2012) 04 KAR CK 0205
In the Karnataka High Court
Case No : Company Appeal No. 18 of 2011

Kishore Kumar Reddy

APPELLANT

Vs

Unicel Technologies P. Ltd. and others

RESPONDENT

Date of Decision : 12-04-2012

Acts Referred:

Companies Act, 1956 — Section 10 F, 235, 237, 399, 403

Citation : (2012) 173 CompCas 298

Hon'ble Judges : K. Govindarajulu, J; D.V. Shylendra Kumar, J

Bench : Division Bench

Advocate : Ganapathi Hegde and Ms. Niveditha Shenoy for M/s. Dua Associates, for the Appellant; Srinivas Raghavan for M/s. Indus Law for Respondents Nos. 1 to 6, for the Respondent

Final Decision : Allowed

Judgement

D.V. Shylendra Kumar, J.—This appeal u/s 10F of the Companies Act, 1956 (for short "the Act"), is directed against an order passed during the pendency of the main company petition before the Company Law Board (for short "the Board"), presented by the very appellant under sections 235, 237, 397, 398, 399, 402, 403, 406 and Schedule XI of the Act. The order came to be passed on an application filed by respondents Nos. 2 and 4 in the main petition, on Company Application No. 189 of 2011, who had sought for permission of the Board to deposit certain shares in the name of the company petitioner with the Board pending resolution of the main company petition.

2. The application had come to be opposed and after hearing both the parties, the Board passed the following order :

C. A. No. 189 of 2011. Heard both sides. CA is closed with a direction, that the Schedule mentioned shares shall be retained in the possession of the applicant, subject to the outcome of the CP without the respondents/petitioner in CP raising any communication with the applicant, filed to C. A. No. 1 of 2011.

3. It is aggrieved by this order, the appeal by the company petitioner.
4. Notice had been issued to the respondents regarding admission. Respondents are served. Respondents Nos. 1 to 6 are represented by Sri Srinivas Raghavan, Learned Counsel, respondent No. 7 is served but unrepresented.
5. We have heard Sri Ganapathi Hegde, Learned Counsel for the appellant and Sri Srinivas Raghavan, Learned Counsel appearing for respondents Nos. 1 to 6.
6. Along with the appeal is made an application in I. A. No. 1 of 2011 for direction.
7. We have noticed that this is not a matter which warrants admission and elaborate hearing and being in the nature of order passed on an interlocutory application, we propose to dispose of the appeal itself as under and there is no need to examine I. A. No. 1 of 2011 for direction.
8. There is a dispute between the company petitioner and the company and the company petitioner has been complaining that there is some oppression of the minority shareholders, mismanagement of the affairs by the company and therefore the petition.
9. It also appears that non-issue of share certificates by the company petitioner is a related issue. Perhaps it is because of this reason, respondents Nos. 2 and 4 made an application, thought it proper to deposit share certificates with the Board. On an application of this nature, the Board could have either allowed or dismissed the application.
10. Submission of Sri Ganapathi Hegde, Learned Counsel for the appellant is that the order though is a small and cryptic order, the Board has gone beyond the scope of the application in issuing certain positive direction and can in effect deprive the appellant, his entitlement for taking delivery of the shares and also even to seek for the same by addressing any letter to the company ; that it is virtually restraining the appellant by such an order though that was neither the prayer and more so the prayer sought for in the application was not being allowed by the Board.
11. Sri Srinivas Raghavan, Learned Counsel appearing for respondents Nos. 1 to 6, on the other hand, submits that the matter being one in the nature of an order passed at an interlocutory stage and with pleadings being complete, it is proper that the Board should be directed to dispose of the main matter than to pay attention to such insignificant matters and on orders passed at the interlocutory stage ; that there is no need for interfering with such orders, etc., that the respondents are disputing the entitlement of the company petitioner to the number of shares in the company claimed by the petitioner and therefore non-delivery of shares to the appellant.
12. Be that as it may, we find that the application was by some of the respondents in the company petition and therefore while the application perhaps

could have been ordered positively, but on the other hand, when it is not so ordered, the Board going further to pass orders in the nature of some restraint order on the appellant was really not warranted and going beyond the scope of the relief sought for in the application itself.

13. It is therefore that we allow the appeal, set aside the order under appeal and dismiss Company Application No. 189 of 2011 without any further orders or directions on the application. However, it is open to the parties to move the Board for expeditious disposal of the main petition if the pleadings are complete and matter is ripe for hearing.