
(1964) 02 KL CK 0004

In the High Court Of Kerala

Case No : Company Petition No. 2D of 1964

Traco Enterprises Ltd.

APPELLANT

Vs

Alexander and Others

RESPONDENT

Date of Decision : 26-02-1964

Acts Referred:

Companies Act, 1956 — Section 101(1), 170, 171, 174(1), 177

Citation : (1964) KLJ 846

Hon'ble Judges : P.T. Raman Nayar, J

Bench : Single Bench

Advocate : K. Chandrasekharan, T. Chandrasekhara Menon and P.K. Ammini, for the Appellant; K.J. Chacko and Ittiera Kalliath For Respondents 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

Raman Nair J.

1. This is a petition u/s 101 (1) of the Companies Act, 1956 for confirmation of a resolution for reduction of share capital. But there is here, in truth, no resolution to be confirmed. For, admittedly, at the general meeting at which the special resolution is said to have been passed, only two members of the company were present in person whereas under article 13 of its articles, "three members personally present shall be a quorum for the General Meeting of the share holders". This article, read with section 174 (1) of the Act (the effect of which latter provision is to make the requirement statutory and not merely contractual) makes it quite clear that a general meeting at which less than three members are personally present is not a meeting at all for want of the required quorum. It is however, argued that the article in question refers only to the annual general meeting and does not apply to an extraordinary general meeting such as the meeting at which the special resolution in question was passed. And special attention is drawn to the definite article, "the" appearing in article 13 before the words, "General Meeting" instead of the indefinite article "a". But there is nothing

either before or after article 13 of the articles, to indicate to which of the different kinds of general meetings the definite article "the" relates and I have little doubt that article (3 applies to kinds of such meetings and that the use of the definite article instead of the indefinite article in article 13 of the articles is only bad English. An extraordinary general meeting is as much a general meeting as an annual general meeting or a statutory meeting, and there is nothing in the Act which would justify the restriction of the term "General Meeting" to annual general meetings. On the contrary, regulation 47 of Table A of Schedule I (which table has been adopted in the articles of the company by article I) which says that, "all general meetings other than annual general meetings shall be called extraordinary general meetings" makes it abundantly clear that extraordinary general meetings are also general meetings and there are a number of provisions in the Act such as Sections 170, 171, 177 and, 193 which indicate that the term, "general meeting" includes all kinds of general meetings, annual, extraordinary or statutory. There seems to be little warrant for the statement in Pandia's Companies Act (Second Edition--page 287) that the term, general meeting is usually confined to the annual general meeting and Palmer's Company Law, Twentieth Edition under the heading "General Meetings" in Chapter 45 mentions the statutory meetings, annual general meetings, and extraordinary general meetings. There being, as I have said, no resolution to be confirmed I dismiss this petition, but make no order as to costs.