

*Sequeira*

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**COMPANY APPLICATION Lodging NO. 674 OF 2013.**

**IN**

**COMPANY APPEAL Lodging NO. 107 OF 2013.**

**WITH**

**COMPANY APPEAL Lodging NO. 107 OF 2013.**

SVC Resources Ltd. .. Applicant  
In the matter of  
SVC Resources Ltd. & anr. .. Appellants  
Vs.  
Mohit Khullar & ors. .. Respondents

Mr.Prathamesh Kamat i/b Yashodhan Gavankar, for applicant.  
Mr.Rahul Chitnis a/w Mr.Samsheer Garud a/w Mr.Agasti Vibhute i/b M/s  
Jayakar & Partners, for respondent Nos.1 to 4.  
Mr.Nimay Dave i/b Mr.Vaibhav Patankar, for respondent No.8.

**CORAM: N.M.JAMDAR, J.  
Thursday 09 January, 2014**

**P.C.:**

By this appeal the appellants challenge the order passed by the Company Law Board-CLB dated 11 December 2013, more particularly the direction to the appellant No.1 to call, convene and hold an EOGM.

2 The appeal has been filed by the Company through its Managing Director and also the Managing Director. In this appeal shareholders and directors of the Company are made party respondents. The main grievance raised by the learned counsel for the appellants is that the

direction issued by the CLB under Section 186 (1) of the Companies Act 1956 read with Section 402 and 403 of the Companies Act, is erroneous as no ingredients for exercise of this powers have been satisfied. It is also submitted that in the petition the petitioner has not prayed for holding of such meetings. The CLB has taken note of the orders passed by the CLB on 12 June 2009, 19 June 2013 and the order passed by this Court on 4 September 2013 and also the fact that the appellant Company on receipt of requisition under Section 169(1) did not hold the EOGM. The CLB has held that CLB has wide powers under Section 186, 402 and 403 to issue such directions and for that purpose reliance is placed by the CLB on the decision of Delhi High Court in the case of **Sanjay Gambhir & ors. vs. D.D.Industries Limited & ors – 199(2013) Delhi Law Times 144 .**

3 In view of the earlier orders passed by the CLB prima facie it does appear that the CLB has rightly exercised the powers under Section 186 of the Act. However, order impugned is an interim order. The CLB has only directed that the EOGM to be held under supervision of an observer and the matter has been adjourned. There is nothing in the impugned order as to what will be the consequence or the outcome of the meeting. It appears that the outcome of the meeting will be also subject to the scrutiny of the CLB. In view of this position there is no warrant to go into the question raised by the appellants at this stage. In fact the learned counsel for the appellants also urges that this course need not be adopted.

4 It is informed that the agenda of the meeting to be held on 11 January 2014 is in regard to appointment of new directors and removal

of some of the directors of the Company. In view of the fact that the matter is under consideration by the CLB it is obvious that outcome of the case will also be subject to the further orders of the CLB. Any resolution passed for removal of these directors or appointment of new directors, should not be given effect to till further orders by the CLB.

5 The learned counsel for the appellants submits that the appellant No.2 and respondent No.8 have filed applications challenging the maintainability of the petition which should be heard first, before CLB considers as to whether the decision in the meeting to be held on 11 January 2014 is to be given effect to. By order dated 4 September 2013 the appellant No.2 has already been given liberty to move the application challenging the maintainability. The CLB will consider the application for maintainability at the time when CLB will consider whether to give effect to the outcome of the meeting dated 11 January 2014. However, if it appears to the CLB that the appellant No.2 or the respondent No.8 are prolonging the matter for any reasons then, it will be open to the CLB to proceed to consider the aspect of giving effect to the outcome of the meeting, irrespective of the application filed for maintainability. It is informed that the next date of hearing before CLB is 20 February 2014. It is expected that on that date or soon thereafter the CLB will conclude this issue.

6 No further directions are required in the appeal as well as application. Both, the application and the appeal are rejected accordingly.

7 It is open to the parties to apply to the CLB for preponing the date

of hearing which request will obviously be considered by the CLB depending on the time available to it.

8 Parties to act on an authenticated copy of this order issued by the Registry.

N.M.JAMDAR, J.

Bombay High Court