

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**COMPANY APPEAL (L) NO. 4 OF 2014**  
**IN**  
**COMPANY PETITION NO. 29 OF 2012**

Shri Rajiv Kant Laxman ...Appellant  
*Versus*  
Bobby Electronics Private Limited and Ors. ...Respondents

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**Mr. Prakash Shinde** *i/b M/s. MDP & Partners, for the Appellant.*

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**CORAM: G.S. PATEL, J**  
**DATED: 15th April 2014**

**PC:-**

1. This is an appeal under Section 10F of the Companies Act, 1956 against the Company Law Board's order dated 4th December 2013, by which the appellant's petition under Section 111, 397, 398, 399, 402, 403 and 406 of the Companies Act, 1956 was entirely dismissed.
2. The appellant is original petitioner. He is a NRI living in London. He claims to be a 50% equity shareholder in the 1st respondent-Company. The petitioner's case before the Company Law Board was that at the relevant time, the petitioner, his maternal uncle one Dindayal Gosain, and the 2nd respondent (Smt. Nirmala

Dindayal Gosain) were the only shareholders of the 1st respondent-Company. The appellant contended before the Company Law Board that the respondents were guilty of various acts of oppression and mismanagement. The petitioner had filed a Civil Suit in the Court of Civil Judge, Senior Division, Thane, seeking various declarations. At the time when Company Petition was decided by the Company Law Board, that Civil Suit was pending.

3. The petitioner also alleged that the respondents illegally and unauthorisedly increased the share capital of the 1st respondent company and diluted the shareholding of the petitioner from 50% to 8%, while increasing that of the 2nd respondent from 1% to 92%. The petitioner also complained of his removal as a director of the company without notice and without any validly called meeting. Further allegations were also made regarding a refusal to grant inspection.

4. The respondents contested the Company Petition before the Company Law Board. They denied that the appellant was ever appointed as a director. Questions of maintainability were raised. On this, the Company Law Board held that the petition was maintainable, and then proceeded to consider the matter on merits.

5. The Company Law Board found, as a matter of fact, that the petitioner was guilty of suppression, in that vital material was kept from his petition. Learned advocate for the appellant today contends there was no suppression; and that the necessary facts have been “mentioned” in his petition. Clearly, the Company Law Board was of the view that a mere “mention” was insufficient. It

required disclosure and copies. The respondents were able to demonstrate before the Company Law Board that the non-disclosure of that material was vital. These are issues of the exercise of discretion and of an appreciation of the pleadings and facts which cannot be re-examined in this Court's jurisdiction under Section 10F of the Companies Act, 1956, unless it be shown that there is manifest perversity on the face of the record. No such perversity is demonstrated.

6. I find from a careful perusal of the impugned order that the Company Law Board has considered all the petitioner's numerous submissions in detail. As to the question of the increase in authorised share capital, for instance, it came to the conclusion as a matter of fact that the 1st respondent needed funds to meet its urgent requirements. There may have been some irregularity in the holding of an EOGM. There may even have been an isolated instance that might, perhaps, have been termed as a solitary act of oppression. However, the Company Law Board was of the view, and in my opinion rightly, that in order to succeed the appellant would have had to show continuous acts of oppression. Putting a particular colour on one act does not, by itself, make an entire case for oppression and mismanagement, just as one swallow does not make a summer.

7. The Company Law Board also concluded that there were other reasons to negate the case of the petitioner. For instance, it noted in paragraph 37 of the impugned order that when the company was in dire need of its funds, rather than support the company, the appellant demanded a return of his investment. An

amount of Rs. 2,50,000/- was paid out by the respondents to the petitioner. There is no dispute about this fact, nor is there any explanation. On the basis of the petitioner's conduct, the Company Law Board held that it did not lie in his mouth to say that there was no justification for increase in the share capital of the company.

8. In paragraph 40 of the impugned order, the Company Law Board has carefully set out its reasoning in relation to the petitioner's submissions regarding the directorships. Not only was there a delay on the part of the petitioner it was not established that his consent was ever required for the appointment of other directors. For all the reasons set out in that paragraph, his contention was negated.

9. I am unable to discern from either the impugned order or the grounds of appeal what, if any, question of law can possibly be said to arise in this matter. In my view, no question of law arises. There is no merit in the appeal. It is dismissed.

**(G. S. PATEL, J.)**