

IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

[Through Physical hearing/VC Mode (Hybrid)]

ITEM No.8

CA.No. 63/2024

C.P. No. 54/BB/2024

IN THE MATTER OF:

Manjula Kashinath & Another

... Petitioners

Vs.

Bhadra Landmarks Pvt Ltd & Ors

... Respondents

Petition under Sec 213 CA 2013

Order delivered on: 23.06.2026

CORAM:

**SHRI SUNIL KUMAR AGGARWAL
HON'BLE MEMBER (JUDICIAL)**

**SHRI RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)**

COUNSELS PRESENT:

For the applicant in CA 63/2024 : Chandramouli Prabhakar

ORDER

CA No. 63/2024 is **allowed** vide separate order. Consequently, the **Company Petition No.54/BB/2024**, found to be not maintainable and is therefore **dismissed**.

-Sd-

**RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)**

-Sd-

**SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)**

Roshini

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH, BENGALURU

[Through Physical hearing/VC Mode (Hybrid)]

C.A.No.63/2024

in

C.P. No.54/BB/2024

IN THE MATTER OF:

M/s. Bhadra Landmarks Pvt. Ltd.

Represented by Managing Director

Mr. Sarvesha Savandaiah Bangalore

Regd. Office at: Ram Leo No.59/4,

Market Road, Basavanagudi,

Bangalore – 560004.

... **Applicant**

Vs.

1. Smt. Manjula Kashinath

R/No.58, 5th Main HVR Layout,

Magadi Road, Bengaluru – 560079.

... **Respondent No.1**

2. Mr. Suresh. N.C

R/No.58, 5th Main HVR Layout,

Magadi Road, Bengaluru – 560079.

... **Respondent No.2**

Order delivered on: 23.06.2026

CORAM:

SH. SUNIL KUMAR AGGARWAL
HON'BLE MEMBER (JUDICIAL)

SH. RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicants : Shri Chandramouli Prabhakar

For the Respondents : Shri A.S Vishwajit

ORDER

Per: RADHAKRISHNA SREEPADA, Member (Technical)

1. The present Company application is filed by the Applicant under Rule 11 & Rule 32 of the NCLT Rules, 2016 seeking following reliefs:
 - a) *allowing this Company Application, and*
 - b) *declaring the Petition filed in C.P.No.54/BB/2024 as frivolous, untenable in law, and dismiss the same on the grounds of maintainability and*
 - c) *pass such further orders as deemed fit by this Hon'ble Tribunal in the interest of justice.*

2. Submissions of the Applicant:

The facts of the case mentioned are as under:

- a) It is submitted that Applicant Company herein M/s. Bhadra Landmarks Pvt. Ltd. was incorporated on 04.09.2012 with the object of carrying on the business of promoters, developers, builders of all types of buildings and structures, residential and including infrastructure projects, formation of residential and commercial layouts by acquisition of land, sites, buildings and purchase or disposal of land or buildings or building projects in any manner.
- b) It is submitted that the Authorized share capital of the Applicant Company is Rs.6,50,00,000 and the paid-up capital is Rs. 6,11,63,020. It is further submitted that Respondent No.1 herein holds 8.17% of the total shares of the Applicant Company.
- c) The Applicant is constrained to file the present Application challenging the maintainability of Section 213 of the Companies Act, 2013 as the Respondents/Petitioners have failed to satisfy how they are entitled to maintain such a proceeding.
- d) It is submitted that Respondents herein fails to satisfy the requirement stipulated under Section 213 of the Companies Act, 2013. Since the Respondents herein do not hold the required percentage of shares at the time of filing the Company Petition, i.e., the application should be made by members holding not less than one-tenth of the total voting power. Therefore, the Company Petition

is liable to be dismissed at the threshold limit as the Respondents herein fails to fulfill the requirement stipulated under section 213 of the Companies Act, 2013 to invoke the Jurisdiction of this Hon'ble Tribunal. A copy of the Audited Financial Statement for the year 2022-2023 is annexed as Annexure -A to the application.

- e) Moreover, the Respondents herein have not obtained any prior permission to file the Company Petition jointly before this Tribunal. As per Rule 23A of the National Company Law Tribunal Rules, 2016 permission from this Tribunal is required to present a joint petition by more than one person but no such permission has been obtained by the 13 Respondents herein, hence the Company Petition is liable to be dismissed.
- f) The applicant herein has duly filed the present application at the very first instance to decide the maintainability of company petitions for non-compliance with Rule 23A of NCLT Rules, 2016. It is further submitted that permission to file a petition under Rule 23A jointly is to be obtained before filing the petition. Post facto permission cannot be granted since it is not contemplated in law. The company petition is liable to be dismissed and the supra defects cannot be permitted to be cured by a belated petition
- g) It is submitted that the Company Petition has been filed based on falsities and suppression of crucial facts. It is submitted that all actions /transactions of the Company had been done with their knowledge and instance.
- h) It is submitted that both Respondents herein attended the Board of Directors meeting regularly till the 2021-2022 Financial Year, and they were aware of the day-to-day activities of Applicant Company herein. Furthermore, all the actions/transactions had been done with their knowledge and instance. A copy of the Board Report for the year 2021-2022 is attached as Annexure - B to the application.
- i) It is further submitted that every decision taken by the Board of Directors of Applicant herein has complied with the Companies Act,

2013 provisions, and the same has been filed with the Registrar of Companies (ROC) Bangalore as per the provisions.

- j) Even though the notice of the meeting has been sent to the directors and shareholders of Applicant herein, the Respondents herein, had refrained from attending the meetings for the Financial Year 2022-2023. Their conduct had drastically changed with mala fide intention and to cause allegations against the Applicant herein. The applicant has earned a reputation for niche distinctive living spaces for an unprecedented experience
- k) On 24.01.2023, a resolution was passed in the extraordinary general meeting of the shareholders of Applicant herein, which approved the increase of Authorized Share Capital and Capital Clause of the Memorandum of Association of the Company, same was done after complying with the provisions of the Companies Act, 2013 and was Intimated to RoC vide e-Form PAS-3. A copy of Form PAS-3 and challan are attached as Annexure-C to the application.
- l) Notice including the agenda of the meeting was duly sent to the Respondents herein, but they failed to take part in the meeting convened. The respondents herein, being the Directors, had the freedom to express their views before the proposed resolution freely, but instead, the respondents herein decided not to attend the meeting.
- m) After ceasing to attend to the affairs of Applicant, respondents herein cannot now blame the Applicant herein for the decisions made in the board resolution. With this management decision, Respondent No.1 herein does not hold even a statutory minimum of 10% shares in Applicant Company. Therefore, the respondents herein do not have any locus standi to approach this Tribunal under Section 213 of the Companies Act, 2013 on the fulfilment of pre-conditions laid down in Section 213 of the Companies Act, 2013.
- n) Also, Respondents herein have not raised any objections against the Applicant Company during their tenure as directors, and till 2020

either of the Respondents herein has duly signed the financial statements. A copy of the Audited Financial Statement for 2019-2020 is attached as Annexure-D to the application.

- o) Further there are several earlier litigations initiated by the Respondents herein on the same cause of action and the same facts alleged in the present Company petition which are still pending and being defended by the Applicant herein. Thus, there is a bar in filing the present petition given the pending original suits and applications under the Arbitration and Conciliation Act, 1996. To mention brief details A.A 81/2023, A.A. 83/2023, A.A 86/2023, O.S 5650/2023, O.S 27/2024 are still pending 0.5 6375/2022 was filed and later withdrawn.
- p) It is submitted that the Respondent No. 02 herein have without the authorization of the Company executed a Cancellation Deed in respect of the Joint Development Agreement in favor of the Company, received the refundable deposit of Rs. 1,27,00,000/- (Rupees One Crore Twenty-Seven Lakhs only) from the Owners and have usurped the said amount by not depositing the same with the Applicant Company herein. The Applicant Company has filed O.S 74/2024 in the City Civil Court, Bangalore, and sought to annul the said Cancellation Deed. The Respondents have not come to the Hon'ble Tribunal with clean hands and being guilty of suppressing facts does not deserve any indulgence by this Hon'ble Tribunal.
- q) It is submitted that even after knowing the facts, the Respondents herein had preferred to file a frivolous Petition under Section 213 of the Companies Act, 2013 in C.P No. 54/BB/2024 with the mala fide intentions to cause impediments to the long-standing business of Applicant Company which is required to be set aside at the threshold itself by this Hon'ble Tribunal and it is submitted that this Hon'ble Tribunal may be pleased not to hear the C.P No.54/BB/2024 pending disposal of the instant Application to meet the ends of justice.

- r) It submitted that the Company Petition has been filed making frivolous allegations against the Company and its Director which date back to Financial Year 2021-2022. The Petitioners have made frivolous allegations *inter-alia* including
- i. Alleged Quasi Partnership
 - ii. Alleged "Illegal Removal" of Respondent No. 1 as a Director
 - iii. The MD of M/s. Bhadra Landmarks Private Limited "takes control as Managing Director and starts to run the Company contrary to law" and making himself sole signatory since 2021
 - iv. The purported illegality of Board Meetings and General Meetings held in 2021 and 2022
 - v. The alleged illegality of appointing Directors to the Board of the Company in November 2022
 - vi. Alleged misuse of Unsecured Loan purportedly granted by Respondent No 1 to the Company &
 - vii. Alleged Diversion of funds & related party transactions
 - viii. Alleged unauthorized Increase of Authorised Capital
 - ix. Alleged failure to offer the Petitioners an option to convert their debt into equity
- s) The Applicant submitted that prior to the Institution of CP 54 of 2024 before this Hon'ble Tribunal, no proceeding has been initiated before this Tribunal under the provisions of Ss. 241, 242 or 244 of the Companies Act 2013 challenging any of the aforesaid acts which has been alleged in the Petition. As such, where the Respondents/Petitioners were aware about the said actions and had failed to take appropriate steps to challenge the same in accordance with law before this Tribunal, the Respondents/Petitioners ought not to be permitted to maintain the said Petition by merely making such accusations without any basis and not having instituted any proceedings.

- t) Further, it is submitted that CP 54 of 2624 has been filed only under Sec. 213 of the Companies Act 2013 and has not been filed as a Composite Petition under 213 and 241-242 of the Companies Act 2013. The Petitioners, knowing fully well that they would have to invoke the provisions of Sec. 244 of the Companies Act 2013 to seek waiver are therefore indirectly couching their allegations pertaining to alleged oppression and mismanagement of the Company under the garb of the present Petition and the same is clearly impermissible under law.
- u) Moreover, it is submitted that an Investigation ought to be ordered only when its purpose is to unearth facts which may not otherwise be available. However, in the present case, the Applicants have nowhere pleaded their inability to access any documents of the Company and have in fact produced detailed proofs in spite of their allegations that they were not in the Company since April 2021. The very fact that the Petitioners have produced information/documents and details of the Company even in the year 2013, including Bank details in support of their frivolous contentions clearly shows that the intent of C.P 54 of 2024 is only to harass the Company and its Directors for the Petitioner's nefarious purposes.
- v) Further, it is stated that in a Petition seeking Investigation u/s.213, the Petitioners have resorted to utter falsehood regarding alleged cash dealings and the same cannot be pleaded summarily without corresponding corroborative proof oral evidence being let in regarding the same. Moreover, the Petitioners knowing fully well the existence of M/s. Bhadra Group Pvt. Ltd. which was incorporated in July 2018 & other entities is now seeking to feign ignorance regarding the same and has failed to produce a copy of the so called enquiry email which had been received by them, which clearly shows that the same is false statement.
- w) It is further submitted that the Relief sought for in the Company Petition is frivolous and non-maintainable for the reason that Sec.

213 of the Companies Act 2013, in the event this Hon'ble Tribunal comes to a conclusion "*....that the affairs of the company ought to be investigated by an inspector or inspectors appointed by the Central Government **and where such an order is passed, the Central Government shall appoint one or more competent persons as inspectors to investigate into the affairs of the company in respect of such matters and to report thereupon to it in such manner as the Central Government may direct...***"

- x) Therefore, the relief sought in Relief VI (a) before this Hon'ble Tribunal is beyond the provisions of the Companies Act 2013 and the Company Petition as filed before this Hon'ble Tribunal ought to be dismissed on this ground alone as not being maintainable.
- y) The present Petition is nothing but a pressure tactic being used by the Petitioners to coerce the Respondents into parting with huge monies and also hand over various apartments to the Petitioners. This is clearly evidenced even from a bare reading of Paragraph 34(f) of the Company Petition and Paragraph 39 of the Petition. The Respondents/Petitioners have failed to produce the details of the various Civil Proceedings pending before various Courts which directly deal with the very same subject matter of the complaints made before this Hon'ble Tribunal and the Petitioners have selectively produced orders favourable to them at Paragraph 41 without producing the relevant Suit documents and the background in which the said orders had been passed. The Applicant herein further states that in respect of the ad interim ex-parte orders obtained by the Respondents/Petitioners, appropriate Applications have been duly filed for vacating the same and the Petitioners have conveniently failed to disclose the same before this Hon'ble Tribunal.
- z) Moreover, the Respondents 1 & 2 (Petitioners before this Hon'ble Tribunal) have failed to show under what provision Relief No. VI (b) is being sought and this clearly shows that the Respondents are merely indulging into a roving inquiry without basis.

aa) It is submitted that in the event the present Application is not allowed, immense prejudice would be caused to the good name, reputation and immense goodwill of the Company and the Group and the balance of convenience clearly lies in favour of the Applicant. Hence, the present Application.

3. **Submissions of the Respondents:**

The Respondents No. 1 & 2 have filed their objections vide Dy.No.3763 dated 28.06.2024.

1. It is submitted that present application is seeking dismissal of C.P.No.54 of 2024 on the grounds of maintainability. The averments and grounds mentioned in the main petition may be treated as part and parcel of this statement of objections.
2. None of the averments in Application warrant consideration by this Tribunal. All averments made in Application are hereby denied unless specifically admitted in the statement of objections. Non-traversal of any averment shall not be deemed to be an admission of any claim, allegation or contention of the Applicant.
3. The averment of the applicant in its application that the Respondents fail to fulfil the requirement stipulated under section 213 of the Companies Act, 2013, to invoke the jurisdiction of this Tribunal is false and denied.
4. C.P.No.54 of 2024 filed by the Petitioners seeking investigation into the affairs of the Applicant Company clearly meets the requirements stipulated under the section 213 of the Act. Section 213 of the Act, 2013.
5. In this case, the Petition shows, almost every, if not all, threshold requirements have been fulfilled for invoking the jurisdiction of this Tribunal under the section 213 of the Act. Not only is Respondent No.1 to this application a founder and shareholder of

the Applicant Company, Respondent Nos. 1 and 2 are both also creditors of the Applicant Company who have admittedly provided interest free unsecured loans totalling to the tune of Rs.7,10,70,783 from April 2012 to November 2020. The petitioners have clearly established through documentary evidence the extent of fraud committed by the Applicant Company and its existing directors on the Petitioners.

6. The Respondent No.1 also held majority shareholding within the Applicant Company which was later illegally diluted from 50% to 8.17% without notice, prior information or consent of the Respondent No.1 This act of illegal dilution of shareholding from a majority shareholder to a minority shareholder is a clear act of oppression on Respondent No.1, thereby satisfying another requirement for calling an investigation under section 213 of the Act as stipulated under clause 213(b) (i) of the Act.
7. The Respondent Nos. 1 and 2 were illegally removed as directors of the Company without following the provisions of the Companies Act, 2013 and without their knowledge. This resolution for removal of Respondent Nos. 1 and 2 and various other resolutions passed by the Applicant Company were illegal and fraudulent as the applicant company and its existing directors failed to comply with the provisions of the Companies Act, 2013 and the Articles of Association. Thus, clearly showing fraud and misconduct towards members of the Company and satisfying condition stipulated under section 213 (b) (ii) of the Act for order of investigation.
8. As mentioned in C.P No.54 of 2024, the Respondents, in the present Application were kept in dark about the affairs of the Company and the existing directors did not provide any information on the functioning of the Applicant Company to the Respondents. No notice, no prior information, no consent of the

Respondents was taken to pass board resolutions as clearly evidenced in the Company Petition.

9. The contention of the Applicant regarding compliance with Rule 23A of the NCLT Rules, 2016 is not supported by either law or logic. It is well-settled that a petition having multiple petitioners but same cause of action and common prayer need not comply with Rule 23A of the NCLT Rules. Thus, there is no technical defect in filing of the Petition.
10. Hence this Application filed by Applicant does not hold any ground and ought to be dismissed.
11. The Respondents also filed parawise comments and reiterate that they deny all averments contained in the Application under reply, save and except those specifically admitted herein.

4. **Further Submissions:**

- 4.1. The Applicant has filed rejoinder vide dy.no.4022 dated 09.07.2024 and has also submitted the written submissions vide dy.no.6805 dated 02.12.2025. The same are taken on record. The Applicant has filed citations in support of the maintainability of the present Application, vide Dy. No. 6745 dated 02.12.2025, as follows:
 - i. Hon'ble NCLT Ahmedabad Bench's Order in Amit N Kapadia vs United Petrofer Ltd. & Ors. (C.P/15/AHM/2024)
 - ii. Hon'ble NCLT Kochi Bench's Order in TP Anil Kumar & Indus Motor Company Pvt. Ltd. & Ors.
 - iii. Hon'ble NCLT Hyderabad Bench Muppavarapu Nirmala Laxmi Ganesh Babu v. Kalanikethan Silks Limited & Ors. {CP No. 48/213/HDB/2023}
 - iv. Hon'ble NCLAT Principal Bench Jitesh Sanmukhlal Shah vs. Corrttech International Ltd. & Ors. {CA(AT) No. 406 of 2024}
 - v. Hon'ble NCLAT Chennai Bench Capt. Valdamannati Jaya Pushpakumar v. Madras Race Club and Ors. {2022 SCC OnLine NCLAT 1926}

- vi. Hon'ble NCLT Hyderabad Bench Bhadreshwar Vidyut Private Limited v. Turbo Aviation Private Limited {2020 SCC OnLine NCLT 1523}
 - vii. Relevant extracts corresponding to Sec.213 of the CA,2013 as extracted from 21st report of the Standing Committee on Finance (2009-2010) discussing the Companies Bill, 2009
- 4.2. The Respondents have also filed citations vide dy.no. 5846 dated 16.10.2024, as below:
- a. R.S. India Wind Energy Pvt. Ltd. v. PTC India Financial Services Ltd and Others 2016 SCC OnLine NCLAT 10.
 - b. S.K. Gupta and Another v K.P Jain and Anr. (1979) 3SCC54.
 - c. Arvind Parasramka v. Calcutta Investment Co. Ltd and Ors. 2021 SCC OnLine NCLT 12484.

5. We have heard the Ld Counsels for the Applicant and the Respondents. We have also gone through the Written Submissions filed and the Case law relied upon by both the parties.

6. **ANALYSIS:**

The Respondents in this Company Application have filed a Petition in CP. No. 54 of 2024 seeking investigation to be ordered in to the affairs of the Respondent Company. In the present application, the petitioner has sought the dismissal of the Company petition.

6.1. To examine this issue, it is necessary to have a detailed look at the Section 213 of the Companies Act, 2013.

Section 213 of the Companies Act, 2013

" The Tribunal may,

(a) on an application made by—

(i) not less than one hundred members or members holding not less than one-tenth of the total voting power, in the case of a company having a share capital; or

(ii) not less than one-fifth of the persons on the company's register of members, in the case of a company having no share capital, and supported by such evidence as may be necessary for the purpose of showing that the applicants have good reasons for seeking an order for conducting an investigation into the affairs of the company; or

(b) on an application made to it by any other person or otherwise, if it is satisfied that there are circumstances suggesting that—

(i) the business of the company is being conducted with intent to defraud its creditors, members or any other person or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive to any of its members or that the company was formed for any fraudulent or unlawful purpose;

(ii) persons concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards the company or towards any of its members; or

(iii) the members of the company have not been given all the information with respect to its affairs which they might reasonably expect, including information relating to the calculation of the commission payable to a managing or other director, or the manager, of the company, order,

after giving a reasonable opportunity of being heard to the parties concerned, that the affairs of the company ought to be investigated by an inspector or inspectors appointed by the Central Government and where such an order is passed, the Central Government shall appoint one or more competent persons as inspectors to investigate into the affairs of the

company in respect of such matters and to report thereupon to it in such manner as the Central Government may direct:

Provided that if after investigation it is proved that—

(i) the business of the company is being conducted with intent to defraud its creditors, members or any other persons or otherwise for a fraudulent or unlawful purpose, or that the company was formed for any fraudulent or unlawful purpose; or

(ii) any person concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud, then, every officer of the company who is in default and the person or persons concerned in the formation of the company or the management of its affairs shall be punishable for fraud in the manner as provided in section 447.

From the above, it can be seen that for the Tribunal to Order Investigation under this Section, it is necessary that the Application should be maintainable.

The present petition is, therefore tested to decide whether it satisfies the conditions laid down in the section.

6.1.1 Maintainability:

1. Since the Applicant company has Share capital, the Clause a(i) is applicable. This requires that for the Application to be maintained, it should be preferred by
 - (i) not less than one hundred members
 - (ii) members holding not less than one-tenth of the total voting power,

In the Present case CP 54/2024 is filed by two Petitioners

Mrs Manjula Kashinath who holds 8.17% of the Share Capital

And Mr Suresh who does not hold any Shares.

Hence, the Petitioners do not meet the eligibility Criteria to maintain the Petition. Also, there is no provision corresponding to Section 244 providing an Opportunity to the Petitioners to seek waiver of the eligibility to file and maintain the Petition.

6.1.2 . Alternatively, if it is to be considered that the petition is filed by the Petitioners as any other person then the creiteria mentioned in Clause b needs to be satisfied which mean

That it has to be established that

- a. the business of the company is being conducted with intent to defraud its creditors, members or any other person or
- b. otherwise for a fraudulent or unlawful purpose, or
- c. in a manner oppressive to any of its members or
- d. the company was formed for any fraudulent or unlawful purpose
- e. persons concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards the company or towards any of its members; or
- f. members of the company have not been given all the information with respect to its affairs which they might reasonably expect, including information relating to the calculation of the commission payable to a managing or other director, or the manager, of the company, order,

From the submissions made by the Petitioners it is difficult to make out that any of the above conditions are met.

6.1.3. The Respondent Company has brought on record that the Respondents in the Present application have not taken part in the Meetings conducted despite due notice. Hence, it cannot be concluded that the affairs of the company are being conducted without information to them.

6.1.4. Further, It is submitted by the Applicant that the Respondent No. 02 has without the authorization of the Company executed a Cancellation Deed in respect of the Joint Development Agreement in favor of the Company, received the refundable deposit of Rs.1,27,00,000/- (Rupees One Crore Twenty-Seven Lakhs only) from the Owners and have usurped the said amount by not depositing the same with the Applicant Company herein. The Applicant Company has filed O.S 74/2024 in the City Civil Court, Bangalore, and sought to annul the said Cancellation Deed. The Respondents have not come to the Hon'ble Tribunal with clean hands and being guilty of suppressing facts does not deserve any indulgence by this Hon'ble Tribunal

The Respondent no2 has not rebutted this.

6.1.4. Considering the facts in totality, We are of the opinion that the present application is to be allowed as the Respondents have failed to disprove the position stated by the Applicant Company.

7. In view of this, the Present **Company application is allowed.**

**-Sd-
RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)**

**-Sd-
SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)**