IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH
[Through Physical hearing/ VC Mode (Hybrid)]

ITEM No.25
CA 22/2024, 23/2024, 24/2024
96/2023, 126/2023, 01/2025
CP No.116/BB/2023

IN THE MATTER OF:

Mr. Nagendran Kandaswamy & Ors. ... Petitioner

Vs.

Throttle Aerospace System Pvt Ltd and Ors ... Respondent

Petition under Sec 241-242 of CA 2013

Order delivered on: 20.07.2026

CORAM:

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

SHRI. RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)

COUNSELS PRESENT:

For the Petitioner	:	Adv. Anirudh Suresh & Adv. Shouvik Dutta
For the Respondent	:	Adv. Madhur A Kalyanshetty

ORDER

1. Vide Separate order **CA 22/2024 is allowed**.
2. List the mater on **15.09.2026**.

-Sd-	**-Sd-**
RADHAKRISHNA SREEPADA	**SUNIL KUMAR AGGARWAL**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

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IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH
(Hybrid mode)

C.A No. 22 of 2024
In
C.P No. 116/BB/2023
Under Rule 11 and 34 of the National Company Law Tribunal 2016

IN THE MATTER OF:

1. M/s. Rattan India Enterprise Limited,
Holding Company of Neosky Limited,
5th Floor, Tower-B,
Worldmark-1, Aerocity,
New Delhi – 11003
2. Mr. Rajiv Rattan,
5th Floor, Tower-B,
Worldmark-1, Aerocity,
New Delhi – 11003,
3. Mrs. Anjali Rattan
5th Floor, Tower-B,
Worldmark-1, Aerocity,
New Delhi – 11003 --- Applicants

Versus

1. Mr.Nagendran Kandasamy,
Villa No.241, Prestige Augusta Golf Village,
Augusta Road, Opp. To Sai Baba Temple,
Anagalapura, Rampura,
Bengaluru – 560049
2.**Mr. Shashi Kumar R**
No.14, Nanjegowda Layout,
Thindlu, Bengaluru-560097
3. **Mrs. Nischita Madhu**
Deshahalli Village and pst,
Kasuba Hobli, Maddur Taluk
Mandya Dist. Deshahalli,
Mandya -571429 --- Respondents

Order delivered on: 20.07.2026

CORAM: 1. Shri Sunil Kumar Aggarwal, Hon'ble Member (Judicial)
2. Shri Radhakrishna Sreepada, Hon'ble Member (Technical)

COUNSELS PRESENT:

For the Applicant : Shri Madhur Kalyan Shetty
For Respondent : Shri Anirudh Suresh

O R D E R

Per RADHAKRISHNA SREEPADA, Member(Technical):

1. This Company Application is filed on 31.01.2024 by **M/s. Rattan India Enterprise Limited and others** (hereinafter referred as "Applicants") under Rule 11 and 32, 42 & 51 of the NCLT Rules, 2016 against **Mr. Nagendran Kandasamy and others** (hereinafter referred as "Respondent") inter-alia seeking the following reliefs:

   a) *Vacate the status quo order dated 18.10.2023 as extended vide order dated 14.12.2023 and*

   b) *Pass any other order that this Hon'ble Tribunal deems fit and proper in the facts and circumstances of this case.*

2. **Facts of the case in the application are:**

   a) The Petitioners in the main CP hold 40% shareholding in the Company along with another minority shareholder M/s. Pinkin Consultancy Pvt. Ltd. The answering Respondent No.1 holds the remaining 60% shareholding in the Company. At the outset, the instant petition has been filed with oblique and ulterior motives and the allegations of oppression and mismanagement are vague, baseless, false and are devoid of merits and suffer from misapplication and manipulation of facts.

   b) The Petitioners in the CP after causing financial loss and being responsible financial frauds to the Company, deliberately depleting its resources have wilfully chosen to abandon the Company and set up a competing business, acting in violation of the terms of the SSHA, the restated Articles of Association of the Company as well as their respective employment agreement dated 25.05.2023. Once the Petitioners have elected to act contrary to the terms of the AOA, SSHA, non-compete obligations as well as their employment agreements and acted both in violation of their fiduciary responsibilities to the Company as well as detrimental to the interest of the Company, the Petitioner cannot blow hot and cold, approbate, and reprobate and claim any rights, whatsoever. It is also disclosed that a FIR No. 061/2024, dated 25.01.2026 lodged at PS Ramaurthy Nagar u/s 405, 417, 418, 420 has been lodged against Nagendran Kandasamy by the Company, through Mr. Sarath Chandra Gudlavalleti.

c) The Petitioners have not only failed to make out a prima-facie case in their favour to sustain the aforementioned interim order, but have also concealed material facts from this Ld. Tribunal and conducted themselves in a manner prejudicial to the interest of the company. It is reiterated that the allegations made in the instant petition do not constitute either oppression or mismanagement. The Petitioner have deliberately, conscientiously chosen to act contrary to the terms of the SSHA, AOA and their Employment Agreements by the Respondents. The Petitioners have furthered and prioritized their selfish interests and unduly benefitted at the costs of the Company. None of the actions of the Petitioners leading to the filing of the instant petition and their conduct thereafter warrants any indulgence by this Tribunal and as such the aforementioned interim order deserves to be vacated.

d) The Petitioners have colluded with Mr. Girish Reddy, the ex-CFO, and acted in complete disregard of the inherent rights granted to the Respondent No. 2/Investor under the SSHA as well as the AOA of the Company, and have continued to act in an unethical manner, prejudicial to the interests of the Company by:

i. Unilaterally tendering their resignations in a premeditated manner with ulterior motives, on 03.07.2023, with identical letters, in blatant violation of the material term of the SSHA as well as the AOA of the Company, i.e. to continue to remain associated/employed with the Company for a minimum period of 5 (five) years, which was a fundamental condition for the investment by Respondent No. 2 in the Company.

ii. Tendering their resignations with immediate effect without any notice period i.e., 90 (ninety) days' notice, as stipulated under their Employment Agreements, thereby causing disruption in the day-to-day functioning of the Company.

iii. Having breached their commitment towards the Company, after their resignation on 06.10.2023, the Petitioners incorporated a Company 'M/s ZULU Defense Systems Private Limited', directly competing business of drones, whilst being shareholders of the Company, in clear breach of their clear and unequivocal non-compete and non-solicitation obligations towards the Company under the Employment Agreements as well as the SSHA, thereby acting in a manner gravely prejudicial to the interests of the Company.

iv. Having set up a directly competing business, the Petitioners are also wrongfully exploiting, misappropriating and mis-utilizing, the proprietary and highly confidential and sensitive data, technology and intellectual property belonging solely to the Company, to which they have access owing to their association with the Company.

v. Pursuant to their collusive resignations, deliberately not participating in the meeting of the shareholders of the Company, even after themselves having issued EGM requisition notice, on 11.08.2023, inter-alia, seeking the removal of one of the Directors i.e. Mr. Sarath Gudlavalleti, appointed by the Respondent No. 1 and knowing fully well that EGM was scheduled for 25.09.2023 for taking up the agenda items of removal of Mr. Sarath Gudlavalleti as well as the Petitioner No. 1, from the Board of the Company.

vi. Clandestinely changing the access to the Company's LinkedIn account credentials and linking the said account to the Petitioner No. 1's personal email ID, depriving the Company and its officials from their rightful access the account and despite multiple reminders, dated 01.09.2023, 07.09.2023 and 26.09.2023, not sharing the access rights with the team. This further illustrates the conduct of the Petitioners in sabotaging the interests of the Company by their spiteful and malicious conduct.

vii. After abandoning the Company and filing the instant malicious petition, the Petitioners are continuing their wrongful attempts to usurp the LinkedIn account of the Company as the Petitioner No. 1, without any authorization or intimation to the Company, has been reaching out to LinkedIn, behind the Company's back, representing himself to be "sole super admin (who created, owned and operated the LinkedIn account of TAS)" and also sent a Legal Notice to LinkedIn, seeking that his access be restored as "super admin" of the Company and further seeking removal of admin access to all 'third parties' i.e., the Company itself, alleging that the access by the Company to its LinkedIn account is "unauthorized third parties accessing the LinkedIn account" and posts/activity by the Company on its own LinkedIn account are posts which impersonate the Company and are misleading the customers and stakeholders of the Company.

viii. Having hacked/ attempted to hack the website of the Company, on 02.11.2023, and changed the business profile status of the Company on Google to 'Permanently Closed', as evident from the email prompts received on the official email id of the Company. It's a bundle of contractions that after the Petitioners' *enmasse* resignation and abandonment of the Company and setting up of a competing business, the Petitioner No. 2, Shashi Kumar Ramakrishna, made a request to be listed as a 'Manager' of Throttle Aerospace Systems Pvt Ltd on its business profile on Google, which is clearly indicative of their malafide intentions towards the Company. Apart from the above, the Petitioners also caused a frivolous public notice to be posted on the home page of the website of the Company, stating 'the business is under litigation in NCLT Bengaluru', giving details of the instant petition, further jeopardizing the Company's interests.

ix. Having resorted to public mudslinging, in clear breach of their obligations to not disparage or tarnish the image and goodwill of the Company, as the Petitioners participated in the publication of a news article titled 'Leadership Exodus at Throttle Aerospace Systems; All Executives Step Down', dated 03.07.2023, making wrongful public statements, detrimental to the business and interests of the Company.

x. Having carried out financial frauds on the Company, by inter-alia (a) making payments to vendors through Company funds and receiving back the amounts from the vendors in Petitioner No 1's personal bank account; (b) misappropriating the funds of the Company, and in fact in a clandestine manner, themselves receiving excess amounts to the tune of Rs. 10.38 Lakhs from the Company. The financial fraud was revealed in the Internal Audit carried out by independent and well qualified team of auditors, basis data gathered from the Petitioners, which revealed instances of financial fraud on the part of the Petitioners, detrimental to the interests of the Company.

xi. Having coerced the Investor to invest huge sums of money into the Company/ keep pumping funds into the Company, inter-alia basis false and incorrect projections of the business of the Company, including its projected turnover and growth prospects, showcasing bogus orders so as to present an inflated sales pipeline of the Company and untrue warranties that the Petitioners are totally committed to the Company and its business and would work diligently ensuring that the Company achieves its projected growth on a long term basis; to selfishly and wrongfully extort money from the Investor and clear their own outstanding loans in the Company from the funds invested and thereafter, not only failing to comply with their unequivocal representations, warranties and obligations under the SSHA, but also carrying out the affairs.

e) it is clear that the Petitioners have acted in a brazen manner, jeopardizing the Company's interests including without limitation, carrying out financial fraud, handling the business operations in a manner detrimental to the interest of the Company, abandoning the Company, setting up competing business, exploiting the intellectual property of the Company, maligning the Company by making public statements and posting public notice(s), attempting to usurp the social media platforms and website of the Company by wrongfully representing themselves as the sole authorized persons/owners of such platforms.

f) The Petitioners have themselves admitted, in the news article '*Leadership Exodus at Throttle Aerospace Systems*; *All Executives Step Down*' that they were struggling financially and that is the reason why Respondent No. 6 came into the picture, which clearly shows that the intention of the Petitioners from the very beginning was to dupe the Investor/ Respondents to part with huge sums of investment, clear their outstanding dues and commit financial frauds and then so as to serve their own selfish interests, abandon/ exit the Company and set up competing business under m/s Zulu Defence Systems Private Limited and further wrongfully embroil the Investor as well as the Company in legal proceedings, by raising false and frivolous allegations, and jeopardize the Company's affairs.

g) Persons who have taken steps to deliberately harm the Company, ought not to be permitted to seek, at the same time on the basis of shareholding or any agreement, or otherwise to asset right in the same company or any position thereunder. Having set up a competing business having deliberately harmed the interest of the Company by breaching their duties as employees and director having abandoned their position of responsibility or having created situation where their removal was inevitable, the reliefs claimed by them are untenable. The Petitioners are estopped from claiming the reliefs in view of their own conduct and the Petitioner cannot seek to approbate and reprobate at the same time.

h) The instant petition is misconceived and in view of the above the interim status quo order dated 18.10.2023 as extended vide order dated 14.12.2023 deserves to be vacated. If the said orders are not vacated irreparable harm will be caused to the Company.

3. **Reply by the Respondents**:

The Respondents have filed the reply vide Dy.No.1972 dated 27.03.2024 contending as under:

a) The averment made by the Respondents that Petitioners are in breach of the terms of the Share Subscription and Shareholders Agreement dated 25.05.2022 ("SSHA") in page 12 to 94 are false and vociferously denied by the Petitioner. The Petitioners (Respondent in C.A) entered into SSHA with the Respondents with the intent that the Respondents No. 2 to No. 8 would invest Rs. 40 crores into Throttle Aerospace Systems Private Limited i.e. the Respondent No. 1 Company (hereinafter referred to as "Company") in exchange for 60% shareholding of the Company. The consideration for the shareholding was to be paid in two tranches of Rs. 20 crores each, one at the date of execution of SSHA and one 18 months after the date of execution of SSHA and was paid directly to the Company and not any of the Petitioners.

b) The SSHA was entered into with the intention of growing the Company into a prosperous business. However, upon transfer of the shareholding of 60% of the Company, the Respondents have interfered with and prevented the management of the Company from conducting business, refused to make the promised balance investment of Rs. 20 crores and have been siphoning off the technical know-how, trade secrets and intellectual property of the Company and manufacturing competing drone products in the name of Respondent No.2. It is clear from the conduct of the Respondents that the SSHA is sham and fraudulent contract/transaction merely entered into by the Respondents to gain access to the intellectual property and technical know-how of the Company and has been entered merely to cover a hostile takeover of the Company by the Respondents.

c) It is submitted that Petitioners and management of the Company upon discovery of the siphoning of the intellectual property and technical know-how of the Company confronted the Respondents in meeting dated 13.06.2023 and demanded explanation from the Respondents regarding the same and suspending the business of the Company to prevent further loss and harm to the Company. However, instead of responding to our request for explanation, the Respondents terminated the CFO of the Company. Thus, it is clear from the conduct of the Respondents that the SSHA was a sham and fraud contract the terms of which the Respondents never intended to abide by. It is submitted that the SSHA is merely a cover for the Respondents to take over the Company founded and promoted by me and the remaining Petitioners.

d) It is a settled position of law under Section 19 of the Indian Contract Act, 1872 that a contract entered into due to fraud or misrepresentation by any party is voidable at the option of the party whose consent was caused by such deception. It is submitted the Company was the first DGCA approved drone manufacturer in India and Petitioner No. 1 was appointed as taskforce member for drone manufacturing by the DGCA. Petitioner No. 1 was the major driving force and mind behind the operations of the Company while the Respondents role was to be limited to supply of capital. However, the actions of the Respondents in siphoning the technical know-how and intellectual property of the Company upon acquisition of stake clearly is indicative of the fraudulent, misleading and deceptive nature of the transactions entered into by SSHA.

e) It is submitted that the averment raised by the Respondents that the present CP is liable to be dismissed as the Petitioners have violated the provisions of the Non-Compete Agreement dated 25.05.2022 ("Non-compete Agreement"). The Respondents have refused to pay the non-compete fee of Rs. 1,00,00,000/- (Rupees One Crore only) as required under Clause 2.1 of the Non-compete Agreement. Further, as per Clause 3.1 and 3.2 of the Non-compete Agreement, it is stated that the Respondent i.e. Investor/Disclosing Party shall provide confidential information including trade secrets, business information, financial information, technical information, methodologies, technical know-how etc., to the Petitioners i.e. Promoters/Receiving Party. The aforementioned clauses are impossible and contradictory as all of the trade secrets, technical know-how etc., are in the hands of the Company and the Petitioners at the time of entry into Non-compete Agreement. The Company is the brainchild of the Petitioners who are experienced and well-known aerospace engineers and all intellectual property and technical know-how flow from and are the products of the Petitioners. Therefore, it is submitted that as the clause 3.2 is contradictory to this fact which is essential to the Non-compete Agreement, there is a bilateral mistake of fact and the Non-compete Agreement is void under Section 20 of the Indian Contract Act, 1872. Further, that as the SSHA is void under Section 19 of the Indian Contract Act, 1872, the Non-Compete Agreement being an ancillary agreement to main SSHA would also be void under Section 19 of the Indian Contract Act, 1872.

f) In addition to the fact that the SSHA and Non-Compete Agreements are void under Section 19 and 20 of the Indian Contract Act, 1872, it is a settled position of law that a contract in restraint of trade is void under Section 27 of the Indian Contract Act, 1872. The Company was founded by Petitioner No. 1 and the designs and technical know-how behind the drones manufactured by the Company are designed by the Petitioners based on their knowledge as aerospace engineers. It is submitted that as Petitioners am relying on their knowledge and experience as an aerospace engineer for their livelihood, such Non-compete Agreement restraining them from engaging in their profession is void.

g) The Respondents have raised petty issues regarding the management of the Petitioners during the time the Petitioners were appointed to key managerial personnel of the Company in order to mislead the Hon'ble NCLT and escape their liability for oppression and mismanagement. That the major issue raised by the CP i.e. the siphoning of the technical know-how and intellectual property of the Company to produce similar drones by the Respondents has not been adequately addressed by the Respondents. Upon Petitioners confronting the Respondents regarding such siphoning of business, the Respondents immediately terminated the CFO under false pretences by raising such petty issues. Such petty issues could have been resolved over the course of business by the management of the Company by filing recovery suits and other business-related transactions and were not seriously damaging to the business of the Company.

h) However, the actions of the Respondents in operating competing business based on technical know-how of the Company are severely damaging to the interests and business of the Company.

i) It is submitted that to justify the removal of CFO and other oppressive actions to disrupt the business of the Company, the Respondents along with auditors of the Respondent have issued the Internal Audit Report dated 01.04.2023 ("Internal Audit Report"), which is a self-serving document with fabricating reasoning which does not serve as justification for the actions of the Respondent. It may be noted that the finding of the Internal Audit Report was denied by the Petitioners vide email dated 28.04.2023 attached herein as Annexure R-4 in page 151 to 152. Despite the same, the Respondent is claiming that such frivolous and petty issues drawn up in this fabricated Internal Audit Report is justification for the actions of the Respondent which is denied by me.

j) It is further submitted that the Respondents also have taken away the intellectual property of the company like product drawings, software source code, other product related technical reports, product strategy documents and have been utilizing them in Respondent No. 2 company to produce competing products. Further, the Respondents have taken away the biometric access, frozen the accounts of the Company, began using the official email of the Company and changed the security policy of the Company, even prior to the resignation of the Petitioners with a view to take control of all the assets of the Company and make business of the Company impossible. Further, the Respondents have also taken possession of personal belongings of the Petitioners kept in the office of the Petitioner for which the Petitioners were constrained to file C.A. No. 126/BB/2023 in CP. No. 116/BB/2023.

k) Without prejudice to what has been stated in the CP and aforesaid and relying fully thereon, the Petitioner has hereafter dealt with the allegations in the CA. The Respondents reiterate the contents of the CP and what has been stated hereinabove and deny and dispute all that is contrary thereto or inconsistent therewith.

l) The Respondents has also submitted their para-wise reply to the application. In support of their contention they have also relied upon:

   i. Pepsi Food Limited and Ors. Vs. Bharat Coca-cola Holdings Pvt.Ltd., and ors. (MANU/DE/0740/1999) passed by the Hon'ble High Court of Delhi.

ii. Taproggee Gesellschaft MBH vs. IAEC India Ltd., (AIR 1988 Bom 157) by the Hon'ble High Court of Maharashtra.

4. We have heard the Learned Counsel for the Applicants and Respondents and gone through the material available on records.

5. **ANALYSIS**: From the material available on record, the following factual position emerges.

   a. A petition u/s 241-242 was filed by the Petitioners in the CP no 116/2023. When the matter came up for hearing on 18.10.2023, though there was a representation on behalf of the Respomdent, it was also submitted that Copy of the petition is not properly served on them. The Bench then directed for proper copy of the complete CP to be served.

   b. Also notice was ordered to the Respondents and simultaneously, an Interim Order was given to the effect that

      "The Respondents are directed to maintain status quo with regard to the shareholding pattern of the Respondent company till the next date of hearing "

   c. This interim Order is Continued from time to time.

   d. On 31.01.2024, the Respondents filed CA 22/2024 praying for the Interim Order to be vacated. This Application was heard on 27.04.26 and both the parties were given an opportunity to file written submissions.

   e. The Petitioner in the Company Application has brought out that

      i. An Internal Audit Report dated 01.04.23 identified systemic financial irregularities. These have been acknowledged by the Petitioner in Main CP on 10.4.23.

      ii. A show cause notice was issued by the Respondents in the main CP to the CFO in respect of the Internal Audit report to safeguard the Investment made by tehm in the Company dated 02.07.23 and he was terminated on 04.07.23.

iii. Even as the Show cause notice was issued to the CFO, the Petitioners in the Main CP rendered en-masse resignations on 03.07.23 unilaterally and these resignations were rejected vide letters dated 10.07.23 by the Respondents in view of the rights granted to the Respondent no 2 under the SSHA entered in to between them.

iv. The Petitioners in the main petition, despite their resignations being rejected, set up M/S ZULU DEFENCE SYSTEMS and started a directly competing business.

v. In view of these facts, the Petitioner in the Company application prayed for Vacating the status quo Order given.

vi. On consideration of these facts, We come to the conclusion that even though there was representation when the Status quo Order was given, it is essentially an ex-parte order as the Respondent did not have the ful, petition as recorded in the Order itself.

vii. After the factual position is brought out, it is apparent that the Petitioners in the main CP seem to have disregarded the Interest of the Respondent Company by tendering sudden and en-masse resignation which has an irreparable effect on the affairs of the Company that too after acknowledging the irregularities pointed out by the Internal Audit.

6. **DECISION**: In this situation, we are of the considered opinion that the Interim Order does not deserve to continued and hence is vacated. Consequently, the **CA in 22/2024 is Allowed**.

-Sd-	-Sd-
RADHAKRISHNA SREEPADA **MEMBER (TECHNICAL)**	**SUNIL KUMAR AGGARWAL** **MEMBER (JUDICIAL)**