

IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

[Through Physical hearing/VC Mode (Hybrid)]

ITEM No.16

**CA. Nos. 72, 91, 97, 98/2022, 43/2024, 133/2025
& IA(CA) No.13/2022 in
CP. No. 88/BB/2021**

IN THE MATTER OF:

Mr. Tono Thomas ... Petitioner

Vs.

Nowon Technologies Pvt Ltd ... Respondent

Petition under Section 241-242 of CA, 2013

Order delivered on: 28.07.2026

CORAM:

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

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

PRESENT:

For the Petitioner : Ms. Maitreyi Bhat
For the R1 to R3 : Shri K M Vishakh Nag for A Murali
For the R4 to R7 : Shri Saji P John
For Respondent No. 8 : Shri Aditya Sethi in CP No. 88 of 2021

ORDER

CA. Nos.97, 98/2022, 133/2025 and I.A (CA) No.13/2022 are allowed vide separate orders.

The Respondent Nos. 4 to 8 deleted from array of parties in the Company Petition.

List the CAs, for arguments on 10.08.2026.

-Sd-

**RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)**

-Sd-

**SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)**

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C.A No. 97 of 2022 in
CP No. 88/BB/2021

IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

(Hearing conducted through Hybrid mode)

C.A No.97 of 2022
in
C.P No. 88/BB/2021

Under Rule 11 of the National Company Law Tribunal 2016

In the matter of:

JANAN TECHNOLOGY HOLDINGS PVT. LTD.,

C1, Block 1, Rama Residency,
Rama Temple Road,
5th Cross, New Tippasandra
Bengaluru-560075

--- Applicant/Respondent No.4

ARUNA MADIREDDY,

No.81, Ferns Habitat,
Doddanekkundi,
Bengaluru -560037

--- Applicant/Respondent No.7

TONO THOMAS,

Residing at 13A, Express Estate,
Kaloor,
Cochin-682016

--- Respondent/Petitioner

Order delivered on: 28.07.2026

CORAM:

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

PRESENT:

For the Applicant in C.A : Shri Saji.P.John & Shri Ajai.P.Johnson
For Respondent in C.A : Mrs. Maitreyi Bhat

ORDER

1. This Company Petition is filed on 06.12.2022 by **Jnani Technology Holding Private Limited** (hereinafter referred as "Applicant") under

Rule 11 & 32 of the National Company Law Tribunal 2016 inter-alia seeking the following reliefs:

- a. Direct to remove Respondent No.4 & 7 /Applicant No. 1 & 2s from the cause title and case;*
- b. Pass such other order as this Hon'ble Tribunal may deem fit in the interest of justice and equity;*

2. Facts of the case:

- a.** The Applicant has filed the main Petition under Section 241-242 seeking reliefs against the oppression and mismanagement and has also alleged that there are financial mismanagement and siphoning of funds and business in the Respondent Company No.1 to Respondent Company No. 8. Without prejudice to the allegations made in the Main Petition the Applicants submits that the Applicant herein is one of the Shareholders of Respondent No.1 Company and holds 11,76,500 Equity Shares constituting 21.18% of the total Equity Shareholding. The Applicant No.2 is one of the Directors of the Applicant No.1. The Applicant NO.1 arrayed as Parties/Respondents to the main case only because it is shareholder of R1 Company. Applicant No.2 is arrayed as party to the main case for the sole reason that she is a Director of the Shareholder entity/Applicant No.1 and a Non-Executive Director of Pathpartner Tech/Respondent No.8. A bare perusal of the main company petition clearly depicts the fact that there are no specific allegations directed against R4 and R7 who are the Applicant herein.
- b.** The major chunk of the Petition is filled with allegations against R-2 and R-3 whom the Respondent/Petitioner finds guilty for loss of his investment. It may be noted that the Respondent's investment was to the Preference Shareholding of the R-1 Company and the Applicant herein did not know or induce him to invest in the Company at any point in time before. The Respondent herein has miserably failed to produce any documentary evidence in the Main Petition to show that the Applicant/R-4 & 7 was the reason for his investment in Nowon. The Respondent was willing to invest based on his review of the market opportunity potential perceived at that point of time and if

the Business could not profit as per the Business plan it is solely because of the unforeseen disruptions in the mobile platform market by lead players which also resulted in sudden exit of key large players of mobile market ecosystems and such other genuine reasons. As an investor, the Petitioner is well aware of the same and for that matter any investor must be willing to take the risks associated with their investments in technology driven market domains. All investments come with its own risks and benefits and the investors evaluate both and then make the investment. The Respondent is a man of reasonable prudence and knowledge. The Respondent herein has had his reasonable opportunity to evaluate the market opportunity being pursued by R-1 Company before investing, which the Respondent/Petitioner would have done also. The Applicant herein did not solicit or induce him to invest since they are not specialists. There is no reference to this effect in the petition or any supporting documents towards the same. It is pertinent to note that the Applicant herein, being an Equity Shareholder of Nowon is also facing the same loss of its investment, as is the case with other Shareholders/investors.

- c.** It is reiterated that the Applicant herein is a Party to the Case only because of the shareholding in the R-1 Company and Applicant No.2 is a Director of Applicant No.1. There are no specific allegations in the petition against the Applicants herein who are R4 to R7 in the main petition. Also the Applicants here were neither a Director nor in the active management or control of the affairs of the Respondent No.1 Company, which is an admitted fact. Even so, they have been arrayed as parties to the case, for reasons best known to the Respondent/Petitioner. It is clarified that Applicant No.2 does not hold any shareholding in R1 Company (nor at Pathpartner Tech/R8). The Applicants herein are added as party to this case for absolutely no reasons and the same is an abuse of the process of law. There is not

even a single allegation against the Applicant No.1 Company and Applicant No.2 in the petition.

3. Reply by the Respondent:

The Respondent has filed the statement of objection vide Dy.No.1790 dated 29.03.2023 contending as follows:

- a) The Respondent No.4 & 7 is a necessary party to the present petition in the absence of whom reliefs sought in the main petition cannot be granted. In other words, for the grant of relief claimed in the prayer of the present petition, Respondent No.4 & 7 must be a parties the main petition. The Respondent NO.4 is Jnani Technology Holding Private Limited holding 17.04% of the shares of the Respondent No.1 Company and Respondent NO.7 is the director of the Respondent No.4 Company. The Petitioner has specifically claimed how the collusive actions of the Respondents No.2 to 7 including Respondent No.4 & 7 tantamount to fraud, oppression, mismanagement and criminal breach of trust.
- b) The Petitioner has sought defined, subsisting, direct and substantive relief against the Respondent No. 4 & 7 in the main petition the nature of which is legal and also equitable. The reliefs have been sought against the Respondents including the Respondent No.4 & 7 jointly and severally in the main petition.
- c) The Petitioner raised specific allegations against Respondent No.4 & 7 in the main petition more particularly under Para7 to 10; para 21 and para 38 and para 54 to 62 of the main petition. The averments in the main petition clearly lays down how Respondents No.2 to 7 including the Respondent No.4 & 7 have misappropriated funds of Respondent No.1 to the benefit of the Respondent No.8 Company.
- d) Respondents No.2 to 7 have been siphoning off the funds to Respondent NO.8 Company wherein the Petitioner has also produced the evidence in the main petition to show how Respondent No.8 Company made profits due to illegal designs of Respondents No.2 to 7. Hence the Petitioner has a right to relief against Respondent No.4

& 7 in respect of the dispute involved in the present petition and as such no effective decree can be passed in the absence of above Respondent NO.4 & 7.

- e) It is well established principle under law that the veil of corporate entity would be pierced in cases of oppression and mismanagement in order to determine the culpability of the persons behind the veil of Company. As such the Respondent No.4 Company is Respondent No.7 and Respondent No.4 Company is holding 21.18% shares in the Respondent No.1 Company and have been involved in collusive actions along with the other Respondents which tantamount to fraud, oppression, mismanagement and criminal breach of trust. It is pertinent to note that Respondent No.7 has also attended Board meetings of Respondent No.1 Company during Financial year 2017-18 notwithstanding the facts that she was never the director of the Respondent No.1 Company. This is also revealed from the statutory documents of Respondent No.1 Company filed before Registrar of Companies. The above clearly reiterates the claim about Respondent No.7's active involvement in the oppression and mismanagement of Respondent No.1 Company. Therefore, impleading of Respondents No.4 & 7 as parties to the main petition has become necessary and mandatory.
- f) The Respondents No.4 & 7 has also stated para-wise reply to the application.

4. Rejoinder for the reply has not been filed by the Applicant.
5. Heard the Ld. Counsel for the Applicant and Respondent and perused the records.
6. **ANALYSIS**: Principles regarding the Necessary party and Proper Party are laid down and discussed by the Hon'ble Supreme Court in Nak Engineering Company Pvt. Ltd. Vs. Tarun Keshrichand Shah and Ors. In SLP (C) Nos. 6024-6025 OF 2022 as below

The fundamental distinction between a "necessary party" and a "proper party" was succinctly explained in Ramesh

Hirachand Kundanmal v. Municipal Corporation of Greater Bombay, wherein this Court held:

“6... A necessary party is one without whom no order can be made effectively. A proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceeding.”

34. In Kasturi v. Iyyamperumal, this Court crystallized the twin tests for a necessary party:

“...the question of jurisdiction of the court to invoke Order 1 Rule 10 CPC to add a party who is not made a party in the suit by the plaintiff shall not arise unless a party proposed to be added has direct and legal interest in the controversy involved in the suit. ... two tests are to be satisfied for determining the question as to who is a necessary party.

The tests are:

(1) there must be a right to some relief against such party in respect of the controversies involved in the proceedings;
(2) no effective decree can be passed in the absence of such party.”

35. This principle has been consistently reiterated. In Mumbai International Airport (P) Ltd. v. Regency Convention Centre & Hotels (P) Ltd.⁷, this Court reiterated:

“15. A “necessary party” is a person who ought to have been joined as a party and in whose absence no effective decree could be passed at all by the court. If a “necessary party” is not impleaded, the suit itself is liable to be dismissed.

“proper party” is a party who, though not a necessary party, is a person whose presence would enable the court to completely, effectively and adequately adjudicate upon all matters in dispute in the suit, though he need not be a person in favour of or against whom the decree is to be

made. If a person is not found to be a proper or necessary party, the court has no jurisdiction to implead him, against the wishes of the plaintiff. The fact that a person is likely to secure a right/interest in a suit property, after the suit is decided against the plaintiff, will not make such person a necessary party or a proper party to the suit for specific performance.”

36. Thereafter, in Vidur Impex & Traders (P) Ltd. v. Tosh Apartments (P) Ltd.⁸, the broad principles governing impleadment were summarized:

“41.2. A necessary party is the person who ought to be joined as party to the suit and in whose absence an effective decree cannot be passed by the court.

41.3. A proper party is a person whose presence would enable the court to completely, effectively and properly adjudicate upon all matters and issues, though he may not be a person in favour of or against whom a decree is to be made.

41.4. If a person is not found to be a proper or necessary party, the court does not have the jurisdiction to order his impleadment against the wishes of the plaintiff.”

7. Tested against these Principles and the Tests laid down, the Petitioner has not established the necessity of impleading the parties proposed. The Petitioner has also not clarified as to what relief is being claimed against them.

8. It is seen that the Applicants in this application is the Respondent No 4 and 7 in main petition. Respondent no 4 is a separate Corporate entity and the Petitioner in the main CP has no connection whatsoever with this entity Directly and hence there can be no relief that can be claimed against Respondent no 4. Respondent no 7 is the Director of Respondent 4. Respondents no7 is a Shareholder of the Company. Though the Petitioner claims that the Respondent no 4 and its Director Respondent no 7 are involved in misappropriation of funds of Respondent no 1 Company, this may not give rise to any relief against him.

8.1. Even the Legal Notice dated 02.07.2020 placed at page nos 140 to 143 of the petition at the last para on page 142, a request is made to intervene in the matter.

9. DECISION: Considering the Totality of facts, We are of the considered opinion that without any specific and direct role having been established in the petition the presence of the applicants is totally unnecessary and may actually be burdensome. Hence, the application is allowed and the Applicant/ Respondent no 4 and 7 are deleted from the array of parties in the Petition and the **CA in 97 of 2022 is Allowed.**

-Sd-

**RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)**

-Sd-

**SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)**