



**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI
COURT-IV**

**IA(COMPANIES.ACT) No. 106 of 2026
IN
C.P. NO. 159/(MB)/2021**

*[Under Rule 11 of National Company Law
Tribunal Rules, 2016]*

1. Moniveda Consultants LLP

2. Rajat Jhunjunwala

..... Applicants

In the matter of

1. Moniveda Consultants LLP

2. Rajat Jhunjunwala

..... Petitioners

V/s

**Shajas Developers Private Limited &
Ors.**

..... Respondents

Pronounced: 01.06.2026

CORAM:

SHRI ANIL RAJ CHELLAN

HON'BLE MEMBER (TECHNICAL)

SHRI K. R. SAJI KUMAR

HON'BLE MEMBER (JUDICIAL)



Appearances : **Hybrid**

For Applicants : Adv. Nausher Kohli a/w Adv. Anurag Singh,
Adv. Maithali Parekh, Adv. Anushka B., Adv.
Zain Khan.

For Respondent No.10 : Adv. Dhruvi Mehta a/w Adv. Janhavi
Kapgate i/b Wadia Ghandy & Co.

For Respondent No.14 : Sr. Adv. Gaurav Joshi a/w Adv. Feroz Patel,
Adv. Munaf Virjee, Adv. Mithali Shetty i/b
AMR Law.

For Respondent No. 6,7,12 & 13: Sr. Adv. Chetan Kapadia a/w Adv. Yash
Momaya, Adv. Ryan D'Souza, Adv. Jash
Shah, Adv. Prateek Kumar i/b DSK Legal.

ORDER

1. BACKGROUND

1.1 The present Application has been filed by the Original Company Petitioners in C.P. No. 159/(MB)/2021, seeking the leave of this Tribunal under Rule 11 of the National Company Law Tribunal Rules, 2016, to amend the Original Company Petition (Company Petition) in terms of the Draft Schedule of Amendments, as annexed to the Application as Schedule I. The Company Petition has been filed under Sections 241, 242, 244 read with Section 59 of the Companies Act, 2013, alleging oppression and mismanagement of Respondents 1 and 2 Companies by the other Respondents, prejudicial to the Applicants.

1.2 The Applicants state that the amendment is necessitated to bring on record material subsequent developments which have arisen during the pendency of the proceedings before this Tribunal, the Hon'ble NCLAT, and the Hon'ble Supreme Court in the last about 5 years, and which are directly germane to

the factum of oppression and mismanagement as pleaded in the Company Petition. It is further stated that the affairs of Respondent Nos. 1 and 2 continue to be conducted in a manner prejudicial to the Applicants, and that the impugned acts and omissions are continuing even as on date, forming part of a continuing course of oppression and mismanagement.

- 1.3 It is further submitted by the Applicants that it is also necessary to add consequential prayers for the declaratory and restorative reliefs, for the complete and effective redressal of their grievances.

2. SUBMISSIONS OF APPLICANTS

2.1 The Company Petition was filed on 04.05.2021. The Applicants state that until February 2021, Respondent No. 1 held 100% of Respondent No. 2, which owned land admeasuring approximately 21,727 sq. meters at Shankarwadi, Jogeshwari East, Mumbai, with no mortgage and no institutional liability of any kind. After the filing of the Company Petition, it is alleged that, in a series of pre-planned acts, the Respondents erased the Applicants' shareholding through a forged MGT-7, inducted new directors through a fabricated Extra Ordinary General Meeting held without notice to Applicant No. 2, and stripped Respondent No. 2 of its entire principal asset by conveying the subject land to Respondent No. 10 for a consideration of less than Rs. 123 Crore, without original title deeds, in violation of a subsisting Bombay High Court order, and without the special resolution mandated under Section 180 of the Companies Act, 2013. Simultaneously, Respondent No. 2 was caused to execute a corporate guarantee of Rs. 525 Crore for the borrowings of Respondent No. 10, without commercial justification.

2.2 The Civil Appeal Nos. 9052-9053/2022 before the Hon'ble Supreme Court arose from the consideration of the nature and scope of interim protection necessary to preserve the subject matter of the dispute pending the adjudication of the Company Petition. These Appeals have been finally disposed of by the order of the Hon'ble Supreme Court on 11.03.2026. By the



said order, the Hon'ble Supreme Court has, *inter alia*, directed this Tribunal to proceed with the pending matters between the parties to the *lis*, making an endeavour to decide the same expeditiously. The Hon'ble Apex Court has expressly stated that it has left open all contentions of the parties on merits to be considered by this Tribunal.

2.3 The Applicants state that Respondent No. 1 is today a shell Company, with its entire shareholding in Respondent No. 2 extinguished through a fabricated invocation of a pledge. Respondent No. 2, which owned land worth over Rs. 1,000 Crore with no liability, has been pushed into Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code, 2016, for a claim of Rs. 1 Crore, with a single creditor now holding 99.6% control of the Committee of Creditors (CoC) on a claim of Rs. 629.9 Crore arising from the very corporate guarantee impugned in these proceedings.

2.4 It is submitted by the Applicants that the application has been filed at the first available procedural opportunity after disposal of the Civil Appeals by the Hon'ble Supreme Court on 11.03.2026, to place the complete and current factual records before this Tribunal and to incorporate consequential prayers for declaratory and restorative reliefs, without which even a successful final order will be bereft of effective relief. The endeavour of the Applicants is to place on record all the foundational facts pleaded in the Company Petition and CA No. 560/2022, pending before this Tribunal.

2.5 The Applicants assert that by passing the order on 11.03.2026, the Hon'ble Supreme Court has recognised that the subject land constitutes the principal asset and substratum of the dispute among the parties involved. The Company Petition currently under adjudication pertains to that subject land. Consequently, for deciding the complete controversy, it is necessary to consider the current factual record. Further, although a substantial part of the subsequent developments was brought on record by filing CA No.560/2022, several categories of material developments have occurred thereafter.

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According to the Applicants, each of these developments has a direct connection to the alleged acts of oppression and mismanagement that occurred, following the filing of the Company Petition and during the pendency of the proceedings before the Hon'ble NCLAT and the Hon'ble Supreme Court. It is submitted that the following categories of incidents could not have been previously incorporated and are now being incorporated for consideration prior to the final hearing of the Company Petition:

- a. Subsequent to the acts of oppression and mismanagement, Respondent No.2 Company, was transferred to Respondent No.10 Company, 'Spenta Suncity Private Limited'. The Respondent No.2, which had possessed Rs.1000/- Crore worth subject land, was admitted into Corporate Insolvency Resolution Process (CIRP) on 30.05.2025 in CP(IB) No.102/(MB)/2022 for a mere default of Rs.1 Crore. The directors of Respondent No.2, surreptitiously conveyed the entire subject land to Respondent No. 10, for less than Rs.123 Crore, and simultaneously caused Respondent No.2, to execute a corporate guarantee for a fresh loan of Rs. 525 Crore taken by Respondent No. 10, through Respondent No. 14, being the trustee of the said loan by way of issue of debentures, without any commercial justification and against the interests of the companies and the Applicants. The said loan was subsequently assigned to 'Phoenix ARC Private Limited' (Phoenix ARC), who submitted a claim of Rs.629.9 Crore in the CIRP of Respondent No.2, basis the entire corporate guarantee. Presently, Phoenix ARC holds 99.6% voting control in the Committee of Creditors (CoC) of Respondent No.10, placing the CIRP of Respondent No. 2, under the effective control of a creditor whose claim arises from the very transactions impugned in these proceedings. The full details are set out in the Schedule to the proposed Amendments. These developments crystallised only in mid-2025 and could not have been incorporated in any earlier application;



- b. Respondent Nos. 10 and 11 created further third-party rights over the subject land in defiance of the protective orders of the Hon'ble NCLAT and the Hon'ble Supreme Court. Fresh debentures were issued over the subject land and commenced construction on the land in order to launch the sale of flats. Moreover, Respondent No.2, under the control of Respondent Nos 6 and 12, the unlawfully inducted directors, suppressed the affairs of Respondent No. 2, by failing to file annual returns for four consecutive financial years. Each of these acts constitutes a further and continuing independent act of oppression and mismanagement, calculated to create irreversible incidents intending to render the Company Petition infructuous;
- c. Respondent Nos. 6 and 7 were arrested by the Economic Offences Wing (EOW), Mumbai on 10.09.2025, for illegal pledge of shares, wrongful event of default and unlawful invocation. The EOW *prima facie* found that the foundational documents relied upon by the Respondents were false, fabricated, forged and ante-dated. These developments have become available only in the recent past upon the investigation being disclosed.


2.6 Since the above acts are directly connected to and arise from the impugned oppression and mismanagement, and have been continuing during the pendency of the proceedings before the Hon'ble NCLAT and the Hon'ble Supreme Court, these are required to be brought on record before the final hearing in the Company Petition. The proposed amendments seek to incorporate declaratory prayers in respect of the impugned transactions and corporate actions complained of in the Company Petition, as well as consequential restorative reliefs. As these prayers flow directly and inevitably from the acts of oppression and mismanagement already pleaded, the specific prayers are sought to be incorporated as stated in the Schedule to the proposed Amendments.

3. SPECIFIC AMENDMENTS SOUGHT



3.1 The present Applicants filed CA No.560/2022 during the pendency of the Company Petition before this Tribunal, placing on record facts and documents enumerating certain subsequent developments that had occurred after the filing of the Company Petition to enable this Tribunal to adjudicate the Company Petition. This is done in light of the direction of the Hon'ble NCLAT to the parties in the Appeal, not to take any "perceptive" ("precipitative") steps in the subject matter for a period of one month from 11.10.2022. Since Company Appeal (AT) No.104/2021 was disposed of by the Hon'ble NCLAT on 11.10.2022 by remanding the matter to this Tribunal for final consideration of all the issues before passing a reasonable order, the present Applicants propose to bring on record material subsequent developments that had happened, including those filed in CA No.560/2022, alleging continued oppression and mismanagement of Respondent No.2 Company by the contesting Respondents. Further, the Applicants propose to bring on record the proceedings before the Hon'ble Supreme Court including the final order dated 11.03.2026 referred to above. It is proposed to add:

- a. 'Part VII- A-Subsequent Developments' under the proposed paragraphs 49 to 61;
- b. 'B-Continuing and Escalating Acts of Oppression and Mismanagement – From Asset Stripping to Insolvency as Instrument' in paragraphs 61 to 68;
- c. 'C. Further Acts of Respondents in defiance of Judicial Orders-Creation of Further Third-Party Rights Over the Subject Land and Concealment in paragraphs 69 to 79;
- d. 'D. Insolvency As the Instrument of Permanent Entrenchment-The End-Game of the Coordinated Design' in paragraphs 80 to 90;
- e. 'E. Forensic Corroboration-Investigative Findings of the Economic Offences Wing, Mumbai Prima Facie Confirming the Fraudulent Corporate Actions' in paragraphs 91 to 98;
- f. 'F. Additional Documents Placed on Record' in paragraphs 99 to 101;


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- g. 'G. The Coordinated Design-The Connecting Picture' in paragraphs 101 to 105;
 - h. new prayer clauses from (ii-a) to xxix and consequential renumbering of clauses of amendment of certain prayers; and
 - i. New List of Annexures to the Schedule.

4. CONTENTIONS OF RESPONDENTS

4.1 Respondent No. 2 Company, JLS Realty Private Limited is represented by its Resolution Professional but has not filed any reply. Respondent No.6 (Ms. Mamta Digvijay Singh, who was alleged to have been illegally inducted as a director of Respondent No. 2 and her right to file reply was forfeited in the Company Petition *vide* order dated 29.02.2024) and Respondent No.12 (Mr. Dhiren Shah, who was inducted as director in place of Respondent No.6), have filed their identical replies with the same documents as attachments. Respondent Nos. 6, 7, 12, 13 & 14 filed written submissions. Respondent Nos.6 & 12, former/suspended directors of Respondent No.2 Company submit that the reliefs qua 4,000 shares of Respondent No.1 Company relates back to events that pre-date the filing of the Company Petition and thus are time-barred. It is submitted that the Hon'ble Supreme Court, *vide* order dated 16.12.2021 itself clarified that there was no stay to the proceedings before the NCLT. Since the amendments sought are barred by limitation, the present Application only deserves to be dismissed, according to them.


4.2 Respondent No.1 Company, and Respondent Nos. 4 and 5, who are suspended directors of Respondent No.2 Company, contend that the proposed amendments now sought by the Applicants are misconceived and misplaced, mainly on the grounds of abuse of process of law; dishonest amendments, which are in the nature of altering the nature of the Company Petition. They allege that whenever the Company Petition was being finally heard, the Petitioners would come up with frivolous applications to avoid the

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final hearing. The list of dates and events submitted by the Applicants would only substantiate this. In CA No. 560/2022, the Company Petitioners did not bring on record the subsequent events and prayers covered under the proposed amendments, thus causing an enormous delay of five years in bringing facts before the Tribunal although another IA for amendment was filed on 03.07.2024 but the Applicants did not pursue during the pending proceedings before the Hon'ble Supreme Court. This shows that their contention of 'first available opportunity' to seek amendments is faulty. The Applicants have suppressed material information such as indictment against the EOW by the Hon'ble Bombay High Court, stating that the investigating officer conducted investigation against Respondent Nos. 4 from EOW to the Crime Branch was not fair. The Director General of Police also had ordered inquiry against the same investigating officer. In any case, findings of a criminal court are not binding on a civil court. It is further submitted by Respondent Nos.4 and 5 that the amendments sought would change the nature of the Company Petition. The Applicants' attempt is to introduce entirely new allegations seeking fresh and independent reliefs traveling beyond the scope of the Company Petition. While the Company Petition seeks reliefs under Sections 241-242 of the Companies Act, 2013, the amendments seek to introduce insolvency related developments, which are within the domain of the framework under the Insolvency and Bankruptcy Code, 2016. The proposed amendments would expand the *lis* indefinitely and keep the Company Petition perpetually evolving.

4.3 Respondent No.10 Company, 'Spenta Suncity Private Limited' submitted that the Applicants have filed the present voluminous amendments on 26.03.2026, in bad faith, barely ten days after the Company Petition was listed for final hearing by this Tribunal. It is further submitted that the amendments, if allowed, would cause grave prejudice and harm not only to them but also to the larger interest as the subject land is a slum rehabilitation project, besides being a commercial asset. The 802 displaced slum-dwelling families have been awaiting homes for several years now, and any further




delay would hamper their fundamental right to housing. Further, Respondent No.10 Company has already invested huge sums for the development of the slum project, and the cost of maintaining the same is compounding daily. Hence, the balance of convenience is against the present Applicants. The present Application is barred by estoppel, delay and laches by the Applicant. The proposed amendments seek to materially alter the cause of action and expand the scope of the Company Petition, which is attempted to be introduced after the delay of over three years. Section 422 of the Companies Act, 2013 read with Rules 153 and 155 of the National Company Law Rules, 2016, requires any application for amendment to be moved expeditiously. It is untrue that the Applicants preferred the amendments at the 'first available procedural opportunity' and that they could not have filed the same earlier during the pendency of the proceedings before the Hon'ble Supreme Court. The Hon'ble Apex Court has not given any liberty to the Applicants to amend the Company Petition. The Hon'ble Supreme Court directed expeditious disposal of the matter and not the commencement of a new round of pleadings. There was no impediment, for the last three years since the order of the Hon'ble Supreme Court dated 16.12.2022, that prevented the Applicant from bringing on record any subsequent fact. The Applicants' attempt is to fill the gaps in the Company Petition and to introduce documents and averments which were already within their knowledge. Under Section 242(2)(f) of the Companies Act, 2013, this Tribunal is precluded from granting any relief for the termination, setting aside or modification of agreements with Respondent No.10, which is a third-party, without their consent. On the whole, Respondent No.10 also submitted that, the present Application deserves to be dismissed.

5. ANALYSIS AND FINDINGS

5.1 We have heard all the Ld. Counsel appearing for the Applicants and the Respondents, and have given careful consideration of the pleadings by perusing the available records. The case of the Applicants is that the

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Application for amendments to the Company Petition C.P.No.159(MB)/2021 is filed at the 'first available procedural opportunity after the disposal of the Civil Appeals 9052-9053 of 2022 by the Hon'ble Supreme Court on 11.03.2026'. The Hon'ble Court by that order, *inter alia*, directed this Tribunal to proceed with the matters to the *lis* between the parties making an endeavour to decide them expeditiously, preferably within a period of two months from the date of appearance of the parties. The Hon'ble Supreme Court has further made it clear that all contentions of the parties on merits are left open to be considered by this Tribunal. The Hon'ble Apex Court has also given the following directions:

- a) the parties shall maintain status quo in terms of the earlier orders passed by the Court;
- b) no steps shall be taken which would alter the nature of the subject property or create further third-party interests therein; and
- c) the impugned order dated 11.10.2022 passed by the NCLAT is modified in the above and shall continue to operate till the disposal of the Company Petition.


5.2 In the above backdrop, we now proceed to examine whether the requested amendments have any bearing on the final consideration of the Company Petition for granting the reliefs as sought for by the Petitioners. The gist of amendments sought, including the subsequent developments after filing the Company Petition, as pleaded in CA No.560/2022, and otherwise, can be broadly listed out as under:

- A. Orders passed by the Appellate Courts in the various proceedings and the copies of Interim Applications filed by the parties before the Hon'ble Supreme Court;

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- B. Subsequent acts committed by the Respondents allegedly in defiance of the orders of the Hon'ble NCLAT during the pendency of the proceedings, constituting continued oppression and mismanagement;
- C. Transfer of the subject land to Respondent No.10, allegedly a defaulter, in an alleged surreptitious manner;
- D. Matters regarding Respondent No.2 executing the Mortgage Deed and Guarantee Borrowings of Respondent No.10, in whose favour the subject land was transferred;
- E. Alleged steps taken towards the transfer of development rights of Respondent No.2 Company to Respondent No.10 Company;
- F. Alleged unlawful induction of directors to Respondent No.2 Company and the alleged stripping of the assets of Respondent Nos. 1 and 2 Companies;
- G. Changing of registered office of Respondent No.2 Company through allegedly fabricated and ante-dated documents;
- H. Alleged approval of the financial statements of Respondent No.2 Company for the FYs 2019-2020 and 2020-2021, without notice to Applicant No. 2, Mr. Rajat Jhunhunwala;
- I. Alleged continuing acts of oppression and mismanagement by the Respondents by asset stripping of the subject land and against the protective orders given by the Hon'ble NCLAT and the Hon'ble Supreme Court in the various proceedings;
- J. Creation of fresh charge on the subject land by the issue of additional debentures;

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- K. Commercial launch of housing project through Maharashtra Real Estate Regulatory Authority for allegedly creating irreversible third-party rights;
- L. Assignment of debt to Phoenix ARC;
- M. Alleged pre-arranged initiation of CIRP of Respondent No.2 Company;
- N. Alleged fictitious claim of Rs.629.9 Crore by Phoenix ARC with 99.6% voting right in the CIRP of Respondent No.2 Company;
- O. Pending criminal investigation by Mumbai Police under FIR/MECR No.1 of 2021, against the purported pledge of 39,73,636 shares of Respondent No.2 Company, and subsequent transfer of the case to the EOW and re-registering as C.R. No. 51 of 2025;
- P. Placing complete records relating to the entire proceedings in CA No.560/2022, and otherwise, in the Company Petition, for the purpose of effective adjudication of the Company Petition; and
- Q. Adding additional prayers including for Rectification of Register of Respondent No.1 Company by restoring the name of the Company Petitioner No.1 Company as holder of 4,000 equity shares with all consequential rights; and other declaratory prayers.


5.3 It is observed that the entire Company Petition revolves around the subject land and the alleged oppression and mismanagement of Respondent Nos. 1 and 2 Companies. While hearing the parties on 29.07.2021, this Tribunal declined to pass any interim order as requested by the Applicants who are the Original Company Petitioners in C.P.No.159(MB)/2021. Therefore, Company Appeal (AT) No.104/2021 was filed before the Hon'ble NCLAT on 02.09.2021. During the pendency of the appeal before the Hon'ble NCLAT,



it was alleged that Respondent No. 2 Company executed a Conveyance Deed in respect of the subject land on 08.09.2021, in favour of Respondent No.10 Company; and executed an indenture of mortgage dated 09.09.2021, securing the loan of Rs.525 Crore availed by Respondent No.10 Company. In the Company Appeal (AT) No.104/2021, the Hon'ble NCLAT passed an interim order on 22.10.2021 directing the parties not to make any 'perceptive steps' ('precipitative steps') in the subject matter. The allegation of the Applicants is that, in spite of the interim protection granted by the Hon'ble NCLAT, attempts were made to transfer development rights on the subject land, and to alter the management structure of Respondent No.2 Company. Consequently, Contempt Case (AT) No.02/2022 was filed on 11.01.2022 before the Hon'ble NCLAT, which resulted in strengthening the interim protection and restraining the transfer of development rights by order dated 22.07.2022. Further, on 29.07.2022, the matter was remanded to this Tribunal by the Hon'ble NCLAT, for fresh consideration, by setting aside the NCLT order dated 29.07.2021, declining to grant interim relief. Against the above order of the Hon'ble NCLAT, the Hon'ble Supreme Court passed the order on 11.03.2026 and remanded the matter to this Tribunal for final disposal.


5.4 While disposing of the Civil Appeals and other petitions, the Hon'ble Supreme Court directed the parties to appear before this Tribunal on 19.03.2026. The present Application for amendments is filed by the Applicants on 26.03.2026. Thereafter, the present Application came up for consideration of this Bench for the first time after remand by the Hon'ble Supreme Court on 30.03.2026, on which date notice was issued to R-3, R-10 & R-11, returnable on 06.04.2026, and again listed on 13.04.2026. The Applicant was heard on that day itself and the case was listed to 20.04.2026 for hearing the Respondents at a fixed time. The arguments of the Ld. Counsel for R-6, R-7, R-12 and R-13 were heard on that day and listed the matter for hearing R-1, R-4, R-10 and R-14 to 05.05.2026. All the dates for the hearing were fixed as per the convenience expressed by the Ld. Sr. Counsel appearing for the parties. The

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Ld. Counsel for R-3 submitted that R-3 adopts the submissions made by the Ld. Counsel for R-6, R-7, R-12 and R-13. On 05.05.2026, the Bench heard the submissions of R-2, R-4, R-10 and R-14 and listed for written submissions to 11.05.2026 at a fixed time. On that day, the parties were heard again and the case was listed for written submissions to 14.05.2026. Since written submissions of some of the Respondents were unavailable, the matter was stood over on priority to 15.05.2026, the last day before the Courts closed for summer vacation. On that day, the present Application was reserved for orders. Since this Application for seeking amendments to the Company Petition and the challenges by the Respondents were brought forth for our consideration, it was determined that this Application would be decided first, prior to the final hearing and disposal of the Company Petition.


5.5 It is the case of the Applicants that they have filed the present Application in good faith, solely to assist the Tribunal for the proper adjudication of the Company Petition, and assert that the Application is only procedural in nature. It is submitted that the Hon'ble Supreme Court has already identified and recognised that the subject land constitutes the principal asset connected with the dispute of oppression and mismanagement between the parties. According to them, until February, 2021, the Respondent No.1 Company held 100% of Respondent No.2 Company, which owned the subject land, with no mortgage or institutional liability. The allegations include a series of oppression and mismanagement acts by the Respondents aimed at erasing the Applicants' shareholding through purportedly forged documents, illegal induction of new directors and unlawful stripping of Respondent No. 2 of the subject land. Furthermore, it is alleged that Respondent No.2 Company was caused to execute a corporate guarantee for Rs.525 Crore for the borrowing undertaken by Respondent No.10 Company. Respondent No.1 Company has reportedly been reduced to a shell company by extinguishing its entire shareholding in Respondent No.2 Company through an alleged fabricated invocation of pledge. Subsequently, Respondent No.2 Company was forced to into CIRP for a small default of 1



Creore, whereas a single creditor now holds 99.6% claim and exercises complete control over the CIRP of Respondent No.2 Company. Hence, it is imperative to bring on record all these events including those which have been agitated in CA No.560/2022 in the Company Petition for a holistic appreciation of facts and circumstances surrounding the matter.

5.6 On the contrary, the contesting Respondents oppose the Application mainly on the grounds of alleged mala fides by the Applicants; delay in proposing the amendments; abandonment or election; and limitation. Respondent Nos. 6, 7, 12 and 13 contend that the Applicants have never challenged the transfer of pledged shares from Respondent No. 1 to Respondent No.14, IDBI Trusteeship Services Ltd. Similarly, the Deed of Conveyance dated 08.09.2021, the Debenture Trust Deed (DTD) dated 09.09.2021 and the Corporate Guarantee dated 09.09.2021, have also not been challenged till date although all these were in the knowledge of the Applicants. According to them, the Applicants are now seeking certain corporate actions of the companies from February to June, 2021. The amendments are in the nature of introducing reliefs beyond the jurisdiction of this Tribunal and constitute new and distinct causes of action, fundamentally altering the character of the Company Petition.

5.7 As stated above, the Respondents vehemently opposed the Amendment Application, *inter alia*, on the grounds of mala fides and delay. It was also submitted by the Respondents that the Hon'ble Supreme Court has not given any liberty to the Applicants to file any amendment application in the order dated 11.03.2026. All the alleged subsequent events were already known to the Applicants and the documents were already available with them for the last about five years, but they chose not to seek any amendments to bring these on record until now. Since CA No. 560/2022 is already pending before this Tribunal, there is no requirement for the present Application for amendments at this juncture when the Hon'ble Supreme Court has directed to expeditiously dispose of the Company Petition. The Applicants have



already elected to amend the Company Petition once on 25.09.2024 to add Respondent Nos.10 to 14 to the cause title to the Company Petition. Hence, seeking amendments, at the so called 'first available procedural opportunity' has already been exercised by them.


5.8 In this connection, it is pertinent to refer to the decision of the Hon'ble NCLAT in *IVRCL Ltd. Vs. IOT Utkal Energy Services Ltd.* [2017 SCC OnLine NCLAT 43], laying down a binding framework regarding amendment of pleadings to reflect in company petitions during the pendency of proceedings. At Para 7, it is held that *"...if during the pendency of the company petition further acts of 'oppression and mismanagement' taken place and is connected with the allegations already made, such as consequential action taken by Respondent, the Tribunal should allow the appellant to bring development to the notice of the Tribunal."* The aforementioned judgment clearly signifies those subsequent events relevant to the alleged acts of oppression and mismanagement should ordinarily be permitted to be incorporated in the Company Petition. Regarding the Respondents' assertion of lack of bona fides due to the delay in filing the Amendment Application with respect to the corporate actions that took place during February to June 2021, it is observed that the same were duly challenged by the Applicants in CA No. 560/2022. The Civil Appeal in respect of the nature and scope of interim protection necessary to preserve the subject matter of the dispute in the Company Petition was finally disposed of by the Hon'ble Supreme Court only on 11.03.2026.

5.9 It is pertinent to observe that this Amendment Application was filed on 26.03.2026, which is fifteen days after the disposal of Civil Appeals 9052-9053/2022 on 11.03.2026 by the Hon'ble Supreme Court. Under these circumstances, it cannot be regarded as excessively delayed. Moreover, although no liberty of the Hon'ble Supreme Court was either sought or granted for filing amendment application, this should not impede the Applicants from seeking amendments to the pleadings unless it is

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demonstrated that the amendments sought are irrelevant to the subject matter at issue. The objective of the Applicants is stated to be, to place on record the complete and up-to-date factual records along with the inclusion of consequential prayers and directions that will enable this Tribunal to pass effective orders in the Company Petition. The prior amendment of the Company Petition on 25.09.2024 to add Respondent Nos. 10 to 14 to the cause title of the Company Petition is of no bearing as multiple applications for amendment are permissible in a single legal proceeding. Furthermore, the principles of res judicata/abandonment/election do not apply because the former application for amendment was not adjudicated on the merits. In the circumstances, the bona fides of the Applicants in relation to the Amendment Application are not doubted.

5.10 This takes us to the next contention of Respondent No.10 that the Applicants are seeking reliefs against them, being a third party, cannot be entertained at this juncture and is hit by limitation. Any illegality or the rights of parties would be appropriately dealt with on their merits at the time of final disposal of the Company Petition and the parties would be afforded sufficient opportunity to defend their position in accordance with the law. The decision of the Hon'ble Bombay High Court relied upon by the Respondent No.10 in *Shashikala Sriram Shetty Vs. Jagannath Honnaya Shetty and Ors.* [WP No. 18933/2024], has no application in the present case as the documents sought to be brought on record and the attendant pleadings and reliefs bear significance on the determination of the real question in controversy in the present matter. We observe that these issues have been persistently agitated by the parties before the Appellate Courts. Further, it is important to observe that the proviso to Rule 17 of Order VI of the Code of Civil Procedure, 1908, is not applicable given the absence of a trial framework under the Companies Act, 2013, as in that Code, especially since the Hon'ble Supreme Court has remanded the matter back to this Tribunal to proceed with and determine the pending matters to the *lis* between the parties. The Ld. Counsel for Respondent No.10 drew our attention to the judgment in *Life*



Insurance Corporation of India Vs. Sanjeev Builders Private Limited [(2022) 16 SCC], to contend that amendment of a suit is not permissible to include time-barred claims. He vehemently argued that the Applicants are attempting to circumvent the law of limitation and revive stale claims through the proposed amendments, thereby unfairly divesting Respondent No. 10, of a vested legal right acquired by the lapse of time. However, it is already settled by the Hon'ble Supreme Court that the Courts must be extremely liberal in granting the prayer for amendment, if it is of the view that, in the event of not allowing the amendment, the party who has prayed for the same shall suffer irreparable loss and injury. It is also well settled that there is no absolute rule that in every case where a relief is barred because of limitation, amendment should not be allowed. It is always open to the Court to allow an amendment if it is of the view that allowing the amendment would really subserve the ultimate cause of justice and avoid further litigation. Each case and every application for amendment has to be tested in the applicable facts and circumstances of the case. In the present case, the proposed amendments to the pleadings amount to bringing in additional documents relating to the same underlying facts. It has been observed that the Hon'ble Supreme itself allowed to implead Respondent No.10 as a party respondent by order dated 15.07.2024, in IA No. 145611/2024 in Civil Appeal Nos. 9052-9053/2022. Since the reliefs against Respondent No. 10 have been actively agitated, it cannot be said that there was a lack of due diligence by the present Applicants in pursuing the remedies; hence, the bar of limitation, if any, shall be considered at the appropriate time.

5.11 The Respondents 6, 7, 12 and 13 have also cited the judgment of the Hon'ble Supreme Court in *Revajeetu Builders & Developers Vs. Narayanaswamy & Sons* [(2009) 10 SCC 84], to buttress the point that, as a general rule, the Court should decline amendments if a fresh suit on the amended claim would be barred by limitation on the date of the application. The law is well settled that the NCLT has widest jurisdiction and our power under Sections 241 and 242 of the Companies Act, 2013, are not

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circumscribed by the specific reliefs enumerated in Section 242(2). Hence, it is necessary to bring in all facts and circumstances that are connected or incidental to the *lis* to be determined in the matter, although the final decision on the reliefs sought would depend on the material and available evidence, based on the applicable provisions. The Respondent Nos. 6, 7, 12 and 13 also argued that the power to set aside third-party transactions under Section 242(2)(f) of the Companies Act, 2013 is *pari materia* Section 402(f) of the Companies Act, 1956, and cited the decision of the Hon'ble Gujarat High Court in *Mohanlal Ganpatram Vs. Shri Sayaji Jubilee Cotton* [AIR 1965 Guj 96], which held that power to set aside a transaction in favour of a third-party is not available to a company court beyond three months prior to the date of a petition. However, since the Applicants have already challenged the very appointment of the directors who allegedly carried out certain fraudulent transactions, this is a matter to be considered on merits at the time of final disposal of the Company Petition. The proposed amendments would not fundamentally change the very nature and character of the case. These Respondents have cited many other precedents to argue the point on the bona fides of the present Application, delay and limitation. They have also opposed the Amendment Application on the grounds of lack of jurisdiction of this Tribunal under Sections 241-242 in comparison to the powers of a Civil Court. According to them, since the usual parties to oppression and mismanagement are shareholders or directors and not third-parties, this Application is not maintainable. It is further agitated that due to the summary nature of proceedings under Sections 241-242, no trial and complicated questions of facts and law are involved in a proceeding under Sections 241-242. It is argued that the attempt of the Applicants is to drag third-parties to *inter se* shareholders disputes. According to them, the reliefs in the Application are in the nature of specific reliefs, which cannot be decided by the Tribunal. However, we are of the considered opinion that having regard to the nature and circumstances of the disputes between the parties, all these issues would be considered at the time of final disposal of the Company Petition.



5.12 Respondent No.14 also controverted the submissions of the Applicants and submitted that the several allegations made against them in the present Application are not maintainable. They have also challenged the Amendment Application, *inter alia*, on the grounds of delay and limitation. They submitted that being a third-party debenture trustee under the DTD 09.09.2021, they cannot be roped into the present proceedings as under the DTD, the subscribers agreed to subscribe to Non-Convertible Debentures having aggregate value of Rs.525 Crore. This amount was advanced for the expenses, *inter alia*, towards the project being developed by Respondent No. 10. It is submitted by Respondent No. 14 that oppression and mismanagement can be filed by a shareholder in the event of material change not being a change brought about by or in the interest of any creditor. Hence, no relief against third-party is maintainable under Sections 241 and 242 of the Companies Act, 2013. Respondent No.14, being a creditor does not exercise any independent ownership rights or lender rights in relation to the debentures or the secured assets, and cannot thus be dragged into the present dispute between the parties. Since the Hon'ble Supreme Court has already disposed of the contempt proceedings, no issue arising from the same survives as on date. We find that the Hon'ble Supreme Court had permitted the present Respondent No.14, to be a party respondent by order dated 16.12.2022 and by order dated 16.02.2024, in Contempt Petition Nos. 616-617/2023 in Civil Appeal Nos. 9052-9053/2022, and also issued notice to the alleged contemnor/respondent, although the personal presence of alleged contemnor was dispensed with. Be that as it may, considering the alleged chain of events including the allegation that the DTD and indenture of mortgage dated 09.09.2021 were executed without valid legal authority covered under the proposed prayers of paragraphs, more particularly paragraphs (xix); (xx); (xxi); (xxii); and (xxiii), we are not inclined to accept the arguments of the Ld. Sr. Counsel for Respondent No.14 at this juncture. However, the Respondent No.14 shall be at liberty to defend the allegations against them at the appropriate time.




5.13 Respondents 10 and 14 further submitted that under the proviso to Section 242(2)(f) of the Companies Act, 2013, this Tribunal is precluded from granting any relief for termination, setting aside or modification of agreements without due notice and consent of the concerned third-party. They repeatedly emphasized that under Section 242(2)(g) of the Act, setting aside of any transfer of property or other act relating to a company can be done by the Tribunal, only within three months from the date of filing an application. As discussed above, the argument that no relief can be granted against Respondent Nos.10 and 14, on account of their being third parties, is something that is to be considered at the time of the final hearing of the Company Petition on merits. The consent or otherwise of Respondent No. 10 Company will be a matter that is to be agitated at the time of final arguments. Moreover, if CA No. 560/2022 is incomplete or defective in any manner for want of sufficient pleadings and prayers would also have be considered at the time of final hearing or if the same is independently considered for any reliefs.

5.14 In any case, the Hon'ble Apex Court has already found that the project land (subject land) constitutes the principal asset connected with the dispute between the parties. The Company Petition raising allegations of oppression and mismanagement is still pending final disposal before this Tribunal. The Hon'ble Supreme Court also clarified that all contentions of the parties on merits are left open to be considered by this Tribunal. The issues such as the legality or otherwise of the conveyance of the subject land by Respondent No.2 Company to Respondent No.10 Company and the circumstances of the transfer causing the alleged oppression and mismanagement are matters to be finally considered for determination by this Tribunal. No presumption in favour of or against any party can be drawn at this stage, as the merits of the matter are yet to be considered. As regards the contention of the Respondents that the Applicants are attempting to fill the lacunae in the Company Petition, there is no harm in allowing the proposed amendments

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since all the amendments sought are in one way or the other connected with or incidental to the overall submissions already made by the Applicant before this Tribunal and the Appellate Courts, forming part of the judicial records. In respect of the challenge against the Amendment Application on the ground of limitation, pendency of the multiple disputes before this Tribunal and the Appellate Courts is indisputable. The issues germane to the oppression and mismanagement remained under litigation for the last five years. The cause of action leading to the filing of the Company Petition has never ended leaving the Company's issues unresolved or finally decided. The chronology of events and the litigation clearly demonstrate that the alleged acts are continuously in existence and litigated. As observed by the Hon'ble Supreme Court in *The State of West Bengal & Ors. Vs. Pam Developments Private Limited & Ors.* [Civil Appeal arising out of SLP (C) No. 11392/2024], cause of action is a bundle of facts giving rise to a legal right. In the present case, the cause of action involves the continuing chain of events, which is still being agitated by the Applicants and pending final determination. However, any issue relating to the accrued vested right will be determined at the time of final hearing and disposal of the Company Petition. If consequent facts and developments are not brought on record, it would result in incomplete and ineffective adjudication of the disputes. Further, we do not find any conscious or intentional relinquishment of a right to amend the Company Petition by the Petitioners. There were neither any substantive amendments sought nor granted by the Tribunal in September, 2024, and as such, there was no adjudication of any issues on the merits. In view of the above, there is no election or abandonment of by the present Applicants. Hence, the Applicants bringing on record the chronology of events and subsequent developments in one place with attendant and consequential reliefs cannot be rejected. The legality or otherwise of any specific oppression and mismanagement and resultant reliefs, will be considered at the relevant time, after affording sufficient opportunities to the parties. The stay granted by the Hon'ble Supreme Court is still continuing until the final adjudication of the underlying controversy until final disposal of the Company Petition by this Tribunal.



Hence, we are of the opinion that the issues would be decided on merits while we finally hear and dispose of the matter. On that count also, no prejudice would be caused to the parties in allowing the proposed amendments.

5.15 The law is settled that limitation sometimes is a mixed question of law and fact, which requires further examination for determination. In *M.C. Devar Holdings Pvt. Ltd. Vs. Aurosagar Estates Pvt. Ltd. & Ors.* [(2017) SCC OnLine SC 2139], the Hon'ble Supreme Court, made it clear that all questions as to whether the amendment has been made within limitation are left open to be decided on the facts of the case when the main company petition is heard. The sum and substance of the proposed amendments in the instant case is to include the developments in the pending and disposed proceedings in the matter of oppression and mismanagement before the Appellate Courts at various stages in one place, and also to bring on record the pleadings in CA No.560/2022 with supporting documents, annexures and consequent prayers. In view of the above, we are of the opinion that the proposed amendments to bring on record additional developments of the same oppression do not constitute a new cause of action. The above is not found to be irrelevant or unconnected to the *lis* between the parties. In *Ganga Bai Vs. Vijay Kumar* [(1974) 2 SCC 393], the Hon'ble Supreme Court categorically held that the power to allow amendment is undoubtedly wide and may at any stage be appropriately exercised in the interest of justice, the law of limitation notwithstanding. Hence, there is no harm in allowing the amendments, even after the alleged expiry of the period of limitation, which would be dealt with on merits at the time of final disposal. It has also been held by the Hon'ble Supreme Court in *Andhra Bank Vs. ABN Amro Bank N. V and Ors.* [(2001) 6 SCC 1675], that delay cannot be a ground for refusal of amendment. Therefore, on a careful consideration of the facts and circumstances of the case at hand, we conclude that the question of limitation is left open for the final hearing. We are thus, not inclined to reject the proposed amendments on the ground of limitation at this stage. We hold that

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no prejudice would be caused to the Respondents in allowing the proposed amendments at present. A close examination of the proposed amendments does not appear to alter the cause of action in the Company Petition but would only aid this Tribunal in the proper determination of the disputes and adjudication of the cause of action. Hence, we do allow the Applicants to carry out the amendments to the Company Petition.

5.16 In view of the above discussions, this Bench directs the Applicants to carry out the amendments to the Company Petition within ten days from the date of this Order and serve copies of the amended Company Petition to all the Respondents within five days thereafter. All the contesting Respondents are at liberty to file additional affidavits within the next ten days of the service of the amended Petition. All pleadings, including rejoinder if any, are to be completed before the next date of listing the Company Petition.

5.17 With the above terms, **IA No. 106/2026** is **allowed** and **disposed of**.

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Sd/-
ANIL RAJ CHELLAN
MEMBER (TECHNICAL)

Sd/-
K. R. SAJI KUMAR
MEMBER (JUDICIAL)