

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) No. 307 of 2026

IN THE MATTER OF:

Narendra Kishanlal Bubna

...Appellants

Versus

Nakul Kishanlal Bubna & Ors.

...Respondents

Present:

**For Appellant : Mr. Anuj P. Agarwala and Mr. Vipul Singh,
Advocates.**

**For Respondents : Mr. Anuj Tiwari, Mr Sameer Mishra and Ms.
Saumya Saurastri, Advocates for R1.**

O R D E R
(Hybrid Mode)

17.08.2026: A proceeding in the shape of TCP No. 06 of 2013, stood instituted before the Ld. Company Law Board invoking the provisions containing under Section 111 of Companies Act, 1956. These proceedings have been pending consideration for quite a long time ever since 2012. However, the issue came-up for consideration before Ld. Tribunal, was with regards to divesting of rights on the basis of so called family settlement as reflected in the order, which has been taken as to the basis for dismissal the company petition on the ground that there was a failure on the part of the appellant to place the family settlement on record, as it was directed by the previous orders passed by this Tribunal.

2. On the day when the proceeding was taken up before the Tribunal i.e; on 01.06.2026, the Ld. Tribunal has called upon the appellant to place the family settlement during the course of the day itself when the proceedings were in progress and it was on account of that failure, the Tribunal has proceeded to dismiss the company petition.

3. While challenging the impugned order, the counsel for the appellant has submitted that they had filed their written submissions in which they have taken a specific stand that there was an oral family settlement that has been entered into between the parties and hence the finding has been recorded by the Ld. Tribunal, even without considering the written submissions by taking it on record. That the finding the recorded that, there was a failure on part of the appellant to place the family settlement on record is perverse, recorded even without considering the stand taken by the appellant before the Ld. Tribunal.

4. So far as respondents are concerned, the respondents vehemently oppose the company appeal contending thereof that the appellant has got no right as of now to sustain the proceedings under Section 111 of Companies Act. So far as they just intend to linger on the arguments, the Ld. Counsel for respondent is concerned, we may not be required to venture into the same for the reason, being that since it was a simpliciter dismissal, of the company petition on account of the inability of appellant to produce the family settlement on record and the Ld. Tribunal has not proceeded to even venture on merits of the proceedings about the sustainability by recording any finding nor the same has

been recorded by Ld. Tribunal it will not be apt for us, at this stage to record any finding on the merits because that would ultimately effecting the rights of parties to the proceedings.

5. The Ld. Counsel for the respondent had submitted that, the appellant had deliberately not placed the previous order sheets on record which shows his conduct reflecting lack of diligence, and that there had been inaction on their part because on couple of earlier occasions the appellant was granted time to place the family settlement on record, but he has utterly failed to do so.

6. As far as this argument of Ld. Counsel for the respondents is concerned, we are of view that, when the proceedings have been taken up before court or Tribunal and is being considered on its merits, in that eventuality the past conduct or past in actions on the part of the party to the proceedings is not to be taken into consideration, as they become irrelevant, besides causes bias to pervade, which may effect the final adjudication of the petition because that will go against the spirit of dispensation of an effective justice. Because if the Tribunal takes into the consideration of past conduct it would reflect the bias on part of the Tribunal while deciding the company petition. In that eventuality this arguments of the Ld. Counsel for respondents is not accepted. In the light on the principles laid down by the Allahabad High Court in the matter reported in ***Qaiser Sibtain Vs. District Judge; (1996 SCC OnLine All 137)*** in para-6, which is extracted below:-

“6. In exercise of revisional jurisdiction, High Court never interferes with the concurrent findings of facts unless the same appears to be perverse. The above proposition is well established proposition with which there is no scope for any two opinion. In the present case, the facts have been found by both the courts below against the petitioner, and, therefore, I refrain from interfering with the fact so found. But the fact remains that while considering the question, the revisional court has dealt with the past conduct of defendant No. 11. It is established principle of law that while considering the question of grant of adjournment or recalling of an order, the past conduct is immaterial. The court has to look into the merit of the case confining to the date of the order sought to be recalled was passed. The court has to look out whether sufficient ground has been made out for the default on the very date or not. Looking into the past conduct would be an extraneous consideration which the court should not go into. In that view of the matter, taking into account the past conduct does not seem to me to be fair and correct approach adopted by the learned court below.”

7. Since the impugned order is exclusively on the ground that the appellant has failed to place the family settlement, which has been answered otherwise that he has already pleaded in the written statement that there was an oral family settlement, that aspect is still required to be considered on merits by the Ld. Tribunal. Hence, the impugned order of 01.06.2026 would stand quashed, the matter is remitted back to the Ld. Tribunal with a liberty left open for the

appellant to ensure to file the written submissions, if not already done within a period of one week from today.

8. Upon filing of the written submissions, the Ld. Tribunal is requested to decide the company petition as expeditiously as possible, at least within a period of three months from today. Subject to the aforesaid, the company appeal stands allowed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Arun Baroka]
Member (Technical)

[Indevar Pandey]
Member (Technical)

harleen/Ravi