

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, MUMBAI

C.P 265/241-242/2017

MA 2764/2019, MA 2856/2019, MA 2066/2019, MA 2067/2019, MA  
859/2019, MA 908/2019, MA 539/2019, MA 812/2019, MA 813/2019

CORAM:

SHRI V. P. SINGH

MEMBER (J)

SHRI RAJESH SHARMA

MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL  
COMPANY LAW TRIBUNAL ON 10.10.2019

NAME OF THE PARTIES: Fibra Shipping Agency & Ors

V/s

Dreams The Mall Company Ltd & Ors

Section 241-242 of the Companies Act 2013.

---

**ORDER**

**5. MA 2764/2019, MA 2856/2019, MA 2066/2019, MA 2067/2019, MA  
859/2019, MA 908/2019, MA 539/2019, MA 812/2019, MA 813/2019  
In C.P. 265/241-242/2017**

MA 2856/2019 has been filed by the Administrator appointed by this Tribunal in CP 265/2017, filed under Section 241-242 of the Companies Act, 2013, seeking immunity to him from all the civil and criminal actions arising out of discharging duties as an Administrator of the Mall.

The applicant contends that the applicant was appointed as an Administrator at Dreams The Mall Company Limited by this Tribunal in the matter of Fibra Shipping Agency & Ors. Vs. Dreams The Mall Company Limited & Ors., CP 265/2017 by order dated 31.8.2018. By the order dated 10.12.2018 and 11.2.2019, this Tribunal directed the Administrator to collect the Common Area Maintenance of Rs.15 per sq.ft of carpet area per month starting from 1.9.2018 on an immediate basis, failing which the Administrator was further directed to take the necessary legal measures.

:2:

This Tribunal by its order had directed the police to provide the help for the removal of the cars, rickshaws; vehicles parked unattended and in unauthorized manner and to help the Administrator in recovering the list of all the owners owning shops/offices/units in the mall.

The applicant contends that since his appointment as Administrator, the applicant has been taking conscious efforts to maintain and improve the Common Area of the Mall by collecting Common Area Maintenance/Monthly contribution from the owners owning shops/offices/units in the mall. However, one of the shop owner, namely, Mr. Velji Gada owning the Shop L-396 at the Dreams Mall, with a view to create hindrance in the effective functioning of the applicant as an Administrator of Dreams Mall, is filing various complaints with various statutory authorities including the Police Commissioner of Mumbai/Bhandup Police Station, Maharashtra State Electricity Distribution Co Ltd, Municipal Corporation of Greater Mumbai and with utter false and serious allegations against the applicant without any substantial evidence to that regard.

The applicant further contends that the Administrator is submitting a monthly progress report to this Tribunal from time to time.

It is further contended that the applicant is using the vacant BMS (Building Maintenance Shop) premises UG 88 and 89 as an Administrator's Office at the Dreams Mall, for administrative purposes and for ease and convenience of the shop owners to resolve the difficulties and problems being faced by them. The applicant has also obtained the electricity connection in the name of Administrator of Dreams The Mall Company Ltd for premises UG-88 & 89 with a purpose of using of electricity for the usage of water pumps to facilitate water supply at the rest rooms and washrooms of the Dreams Mall. However, the complaints have been filed against the applicant questioning the authority of the Administrator and alleging the Administrator of trespassing, impersonation and misrepresentation without any substantial evidence supporting the utterly false claims made by him.

It is further contended that the complaints have also been filed against the Administrator with the Municipal Corporation of Greater Mumbai (MCGM), alleging the Administrator for illegally occupying the premises UG 88 and 89 at the Dreams Mall, allegedly in contradiction of Maharashtra Regional Town Planning Act, 1966 and Bombay Municipal Corporation Act, without any evidence supporting in this regard. The applicant further contends that he has been using the vacant BMS premises UG 88 and 89 as an Administrator's office at the Dreams Mall, strictly for administrative purposes and for ease and convenience of the shop owners to resolve the difficulties and problems being faced by them in the premises of the Mall and has not been doing any personal work in the said office. The applicant contends that in the report filed by him, he has informed this Tribunal for temporary occupation of the premises UG 88 and 89, strictly for administrative purposes.

It is submitted by the applicant that he is in receipt of the notice from the office of State Tax Officer for conducting an audit of records and the books of accounts of the Administrator.

The applicant further contends that since his appointment as an Administrator, he has been taking all the possible efforts to run the Mall independently on the contributions made by the Petitioners and other shop owners of the Mall, evident from the activities reported by the applicant in his periodical Administrator's Reports. However, despite the efforts, due to the obstruction being created by filing of various complaints against the applicant, with various government authorities, the valuable time of Administrator, to be utilised for the betterment of common area of the Dreams Mall is wasted to address the Government Authorities against such false and frivolous complaints.

In the circumstances, the applicant has filed this application as an Administrator seeking immunity to him from all the civil and criminal actions arising out of discharging duties as an Administrator of the Mall.

:4:

It is pertinent to mention that by order of this bench dated 31.8.2018, the applicant was appointed as an Administrator to run the Mall independently on the contributions made by the Petitioner and other shop owners and the Administrator was directed by this Bench to file progress reports fortnightly. Since then the Administrator is discharging his functions in his official capacity as an officer of the court. The applicant has been assigned the duty to run the Mall and maintain the Mall based on the realized maintenance charges from the shop owners of the Mall. The Applicant's duty is to maintain the Mall and discharge his duties. The applicant is temporarily occupying the upper ground floor UG 88 and 89.

In the circumstances, we are of the considered opinion that the Administrator should be provided with the protection against any illegal activities which are causing hindrances in discharging the official duties of the Administrator. The administrator is an officer of the court, and in the circumstances, he should be protected for the acts, which are being done in discharging his official duties assigned to him.

In the above circumstances, we at this moment grant immunity to the Administrator from all the actions arising out of discharging duties as an Administrator of the Mall.

MA 2856/2019 is disposed of accordingly.

The administrator is further directed to file progress report fortnightly. List on 6.12.2019 with all other pending MAs.

Sd/-  
**RAJESH SHARMA**  
Member (Technical)

Sd/-  
**V. P. SINGH**  
Member (Judicial)