

**IN THE COURT OF APPEAL OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF SRI LANKA**

**In the matter of an application
under Section 472 of the
Companies Act No. 07 of 2007**

Dolphin View (Private) Limited
Kandathoduwa
Palliwasalpadu
Kottanthivu 61252
Puttalam District
Mundel D.S's Division

Petitioner

Case No: CA/APN/MISC/04/2015

Vs,

1. The Registrar of Companies
Department of Registrar of Companies
No. 400D, D.R.Wijewardena Mawatha
Colombo 10
2. Mathias Josef Bucher
Dorfstrasse 32, 8835 Feusisberg,
Switzerland.
3. Dana Bucher
Dorfstrasse 32, 8835 Feusisberg,
Switzerland.
4. Ananda Sirisena and Company (Pvt.) Ltd.
341/2, Dalupitiya nRoad,
Mahara,
Kadawata.
5. Kehibella Lanka (private) Ltd.
Kandathoduwa
Palliwasalpadu
Kothanthivu 61252
Puttalam District
Mundel D.S's Division.

Respondents

**Before : Vijith K. Malalgoda PC. J (P/CA) &
S. Thurairaja PC. J**

**Counsel : Rehan Almeida for the Petitioner
Chathura Weththasinghe for the 2nd, 3rd, 4th & 5th Respondents
M. Jayasinghe, SC for the State**

Order on : 2nd March 2017

Order

S.Thurairaja PC J

The petitioner is a private company incorporated on the 8th November 2012 under the Companies Act No. 07 of 2007. The Petitioner claims that the 2nd and 3rd Respondents are foreign nationals and directors of the Petitioner's Company.

On the 28th March 2013, it was resolved by the board of directors to issue 310,000 shares to the 5th respondent. It is further claimed that the 5th respondent had paid Rs. 3,100,000 to the petitioner. The petitioner submits that they have fulfilled all necessary requirements and followed normal procedures.

The petitioner claims that its Company secretary who is the 5th respondents had informed to the 1st respondent Registrar of companies to transfer the shares to 2nd and 3rd respondents it appears it was communications in on the 5th April 2013.

On the 15th October 2014, the petitioners had written to the 1st respondent that names of transferee are incorrect in the form 6 and to rectify the error by entering the name of the 5th respondent. According to the petitioners the 1st respondent had informed the petitioner on the 9th July 2015 that F6 which was filed on 5th April 2013 was already registered and it cannot be corrected. Aggrieved with the said order the petitioner filed the Miscellaneous Application to direct the 1st respondent to correct the erroneous entry.

Section 472 of the Companies Act No. 07 of 2007 states as follows:

*(1) A person who is aggrieved by an act or decision of the Registrar may appeal to the court **within fifteen working days** after the date of receiving notice of the act or decision, or such further time as the court may allow.*

(2) The court may on an appeal made under this section, confirm, revise, modify or set aside the act or decision against which the appeal is made and make any order as the interest of justice may require. (emphasis added)

The Section is very clear on time line. It is stated as 15 working days. The petitioner had delayed more than 1 ½ years to communicate with the 1st respondent for a correct the entry.

Comparing the new Companies Act companies with the previous act, I am of the view the new act is more systematic and regularised the activities of companies. Time is the most important factor in the commercial world. Hence time lines must be followed strictly, if there is a reasonable delay if it is properly explained the court can consider of extending the timeline.

In the present application the petitioner submits that these Directors were living overseas and they were travelling, therefore they were unable to communicate and contact.

In this modern Information Communication Technology world with all types of communication tools and methodologies, these explanations defiantly undermine the knowledge of any reasonable person.

Further granting such a long time period for the petitioner, will harm the efficiency of the Companies Act and also it will open flood gate to violate the time frames stipulated in the said Act.

Considering the Companies Act all material facts before the court, I find the petitioner does not qualify for an order as prayed in the prayer.

Court refuses to grant any order.

Application dismissed.

JUDGE OF THE COURT OF APPEAL

Vijith K. Malalgoda PC J (P/CA)

I agree,

PRESIDENT OF THE COURT OF APPEAL