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ON *"EXPLORING THE CONSITUTIVENESS OF THE WORDS 'OPPRESSION' AND 'MISMANAGEMENT'– THE CORPORATE FAMILY DISPUTE– IN CONTEXT OF CHAPTER XVI OF THE COMPANIES ACT, 2013"*

**MAY 20, 2020**


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***The law relating to prevention of oppression & mismanagement is enshrined under chapter XVI of the Companies Act, 2013. Section 241 of the Act confers upon the members of a company a right to enforce strict actions on the company, its management and/or its majority members, in situations of oppression & mismanagement.***

***Section 241 reads as under:***

***"241. Application to Tribunal for relief in cases of oppression, etc.—***

***(1) Any member of a company who complains that—***

***(a) the affairs of the company have been or are being conducted in a manner prejudicial to public interest or in a manner prejudicial or oppressive to him or any other member or members or in a manner prejudicial to the interests of the company; or***

***(b) the material change, not being a change brought about by, or in the interests of, any creditors, including debenture holders or any class of shareholders of the company, has taken place in the management or control of the company, whether by an alteration in the Board of Directors, or manager, or in the ownership of the company's shares, or if it has no share capital, in its membership, or in any other manner whatsoever, and that by reason of such change, it is likely that the affairs of the company will be conducted in a manner prejudicial to its interests or its members or any class of members,***

***may apply to the Tribunal, provided such member has a right to apply under section 244, for an order under this Chapter.***

***(2) The Central Government, if it is of the opinion that the affairs of the company are being conducted in a manner prejudicial to public interest, it may itself apply to the Tribunal for an order under this Chapter."***

***The remedy so intended in the right so conferred under the afore stated section, necessarily requires acts/conducts of the affairs of the company, which <u>"amounts"</u> to oppression and mismanagement. As also once observed by the Hon'ble Kerala High Court in Palghat Exports Private Ltd. v. T.V. Chandran [1994 79 Comp Cas 213 Ker]:***

> ***…19. The expressions "oppression" and "mismanagement" which are the core concepts in the section are left by the Legislature without defining them. When once it is left without definition, the task of the court is difficult and more responsible. Naturally, the court will always incline to wade through precedents to find out and to assign the correct meaning of these two words "oppression" and "mismanagement" in the context in which they are used. Certainly, the courts have to decide on the facts of each case as to whether there is a real cause of action under Section 397 or 398 of the Act."***

***But in order to conclude that what amounts/constitutes to oppression & mismanagement and what kind of actual conducts/acts the judiciary had believed to be of oppression and mismanagement, we need to look into the relevant judicial pronouncements made under the Companies Act, 1956 & 2013 and also those under the English law. Hence, this research note puts forth a synopsis of various judicial decisions on the captioned issue.***

The legislative history behind the wide powers been conferred upon the court to pass appropriate orders in case of oppression and mismanagement, necessarily includes the reference of the Cohen Committee Report, which recommended that *"the court should have the power to impose upon the parties to the dispute whatever settlement the court considers just and equitable"*. The Cohen Committee report became the basis of inclusion of Section 210 in the English Companies Act, 1948, and which was subsequently followed in India by introducing Section 153C in the Indian Companies Act, 1913.

In India, initially the law dealt with only the cases of minority oppression, but later on, on the recommendation of the Babha Committee in 1952 the scope was widened up and the cases of mismanagement of company affairs in a manner prejudicial to the interests of the company were included. Further, in 1963 the Companies Act, 1956 was amended and the scope (wherein Section 397, 398, 401,402, 403, & 404 dealt with Oppression and Mismanagement) was augmented to apply when the affairs of the company were being conducted in a manner prejudicial to the public interest. Finally, in the 2013 Act Section 397 & 398 were subsumed into one provision (i.e. Section 241) and the provisions were made more straightforward, also now the test for granting relief included– *"whether the company's affairs are conducted in a manner prejudicial or oppressive to any member or members or in a manner prejudicial to the interests of the company"*.

The remedy conferred in Chapter XVI of the Act, corresponds to the unfair prejudice remedy prevailing in the UK. The unfair prejudice remedy is based on the premise that on a shareholder's petition, the court if satisfied that a minority of the shareholders is being oppressed and that a winding up order would not do justice to the minority, should be empowered to make such other order, including an order for the purchase by the majority of the shares of the minority at a price to be fixed by the court.

Moving towards the discussion on our captioned issue. It was observed by the Hon'ble Apex Court in Shanti Prasad Jain v. Kalinga Tubes Ltd. [AIR 1965 SC 1535] that the term

"oppression" has been left to the courts to decide on the basis of facts of each case as to whether there is an oppression that requires an action to be taken under this Section.

But at the same time it has to be kept in mind that this remedy is not in the nature of resolution of disputes through an arbitration between shareholders, as remedy u/s 241 can only be resorted in the circumstances specified/falling within the rationale of the Section. Nevertheless, since it is extremely difficult to define and describe what constitutes "oppression", the remedy has become a panacea and the jurisdictional courts have been virtually performing as an arbitral tribunal. [*–Dr. K. R. Chandratre, Law and Practice Relating to Oppression & Mismanagement – Minority Shareholder's Remedies, Bharat Law House, New Delhi, 2009 at p. 102.*]

In the above context we shall also refer to the case of Chinnamarkathian v. Ayyavoo [AIR 1982 SC 137], wherein It was observed that ―it is a well settled cannon of construction that in construing the provisions of such enactments the court should adopt that construction which advances, fulfils and furthers the object of the Act rather than the one which would defeat the same and render the protection illusory.

In order for the court to grant relief under Section 241-244, it has to be satisfied that the conditions provided in the provision are fulfilled. These conditions similar to those under Section 397 of the Companies Act, 1956 & also in Section 210 of the UK Companies Act, 1948, and are as under:

(1) The petitioner (or each of the petitioners if there are more than one) must be a member of the company;

(2) The petitioner or petitioners must complain that the affairs of the company are being conducted in a manner (a) prejudicial to public interest; or (b) oppressive to any member or members of the company;

(3) The petitioner or petitioners must be eligible to make the application.

(4) The court must form an opinion (a) that the company's affairs are being conducted in a manner (i) prejudicial to public interest; or (ii) oppressive to any member or members; and (b) that to wind up the company would unfairly prejudice such member or members, but that otherwise the facts would justify the making of a winding-up order on the ground that it was just and equitable that the company should be wound up.

These conditions are exhaustive and are not mutually exclusive and all these conditions must be simultaneously satisfied for the Company Law Board to grant the relief claimed. Hence in order to obtain relief under this provision, it is not only required to show that there has been an oppression of the minority shareholders of a company but also that it has been the affairs of the company which have been conducted in an oppressive manner.

Also, the Madras High Court in V. M. Rao v. Rajeswari Ramakrishnan [(1987) 61 Comp. Cas. 20 (Mad)], specified the following conditions as a pre-requisite for a successful application u/s 397 of the Companies Act, 1956:

*"(1) The oppression complained of must affect a person in his capacity or character as a member of the company; harsh or unfair treatment in any other capacity, e.g., as a director or creditor is outside the purview of the section;*

*(2) There must be continuous acts constituting oppression up to the date of the petition;*

*(3) The events have to be considered not in isolation but as a part of a continuous story;*

*(4) It must be shown as a preliminary fact to the application of s. 397 that there is just and equitable ground for winding-up the company;*

*(5) The conduct complained of can be said to be oppression only when it could be said that it is burdensome, harsh and wrongful; oppression involves at least an element of lack of probity and fair dealing to a member in matters of his proprietary rights as a shareholder."*

A notable finding in this context had been made by the Supreme Court in Sangramsinh P. Gaekwad v. Shantadevi P. Gaekwad [AIR 2005 SC 809], that the Oppression complained of must relate to the manner in which the affairs of the company are being conducted and not a particular act, and the conduct complained of must be such as to be sufficient enough to oppress the minority members.

This brings into relevance two questions namely what constitutes "oppression" and "conduct of the company's affairs", as both of them hadn't been defined in the Act.

The term "conduct of the company's affairs" had been defined in "Law and Practice Relating to Oppression & Mismanagement – Minority Shareholder's Remedies" [by Dr. K. R. Chandratre, Bharat Law House, New Delhi, 2009 at p. 129] as under:

> *"The term conduct of the company's affairs is not synonymous with the conduct of the company's business nor the conduct of the management. The word affairs, is wider than both those terms, and illustratively includes– appointment and removal of directors and auditors; appointment and removal of executives; convening and conduct of board meetings and general meetings; voting rights; circulation of members' requisitioned resolutions; requisition for convening general meetings; non-compliance with articles of association of the company, any other agreement or document; accounts; dividends; transmission and transfer of shares; issue, allotment and redemption of shares or other securities; variation of class rights; legal and non-legal rights of shareholders; maintenance and inspection of statutory records; financial matters; conduct of business and operations of the company; incorporation and conversion of the company; subsidiaries and associate companies or companies controlled by those who are controlling the respondent company; sale or disposal of the company's business or assets; restructuring of the company business, etc."*

The term "oppression" in the context of Section 397, had been described by various courts through their pronouncements, some of them are mentioned hereunder:

i. Elder v. Elder & Watson Ltd. [1952 Scottish Cases 49]:

*"...the essence of the matter it seems to be that the conduct complained of should at the lowest involve a visible departure from the standards of fair dealing, and a violation of the conditions of fair play on which every shareholder who entrusts his money to a company is entitled to rely."*

ii. The Hon'ble Supreme Court in Shanti Prasad Jain v. Kalinga Tubes Ltd. [AIR 1965 SC 1535] elaborated by observing that:

*"The conduct must be burdensome, harsh and wrongful and mere lack of confidence between the majority shareholders and minority shareholders would not be enough unless the lack of confidence springs from oppression of a minority by a majority in the management of the company's affairs and such oppression must involve at least an element of lack of probity or fair dealing to a member in the matter of his proprietary rights as a shareholder."*

iii. In Re Jermyn Turkish Baths Ltd. [(1971) 3 All E R 184]:

*"oppression occurs when shareholders having a dominant power in a company either exercises that power to procure that something is done or not done in the conduct of the company's affairs or procure by an express or implicit threat of an exercise of that power, that something is not done in the conduct of the company's affairs. Acts can be construed to constitute oppression even when the acts are committed without any aim of any pecuniary advantage."*

iv. In Re R. A. Noble & Sons (Clothing) Ltd. [(1983) BCLC 273 (Ch. D)], the English court made the finding that the test of oppression, notwithstanding the extent of discretion vested with the courts, ought to be an objective one rather than a subjective one:

*"The test of unfairness must, I think be an objective and not a subjective one. In other words, it is not necessary for the petitioner to show that the persons who have had de facto control of the company have acted as they did in the conscious knowledge that this was unfair to the petitioner or that they were acting in bad faith; the test I think, is whether a reasonable bystander observing the consequences of*

*their conduct would regard it as having unfairly prejudiced the petitioner's interests."*

Interestingly, while the Chapter XVI uses the term mismanagement in its heading but the provision itself doesn't uses the term and instead requires that there is a "prejudice to the company's interest or to public interest as the result of the conduct of the company's affairs". The term prejudicial to public interest had also been described by Dr. K. R. Chandratre in his above referred book at Page 417, in the following manner:

*"The element of public interest enters into the management of companies after 1963. The modern corporation has become the accepted instrument of social policy, because it affects a large part of the economic life of the community. It has become an instrument for the improvement of the economic standards of the people and for economic growth of the nation. Society depends for some of its needs on corporate enterprise. It has therefore an interest in its stability and efficiency as an economic institution. The element of public interest also arises from the responsibility for ensuring a minimum wage to the numerous employees in the corporate sector. It is necessary to see that people who put their labour and lives into a concern get fair wages, continuity of employment and a recognition of their right to their jobs where they have trained themselves to highly skilled and specialised work. In deciding whether a court should wind-up a company or change its management, the court must take into consideration, not only the interest of the shareholders and creditors but also public interest in the shape of the need of the community and the interests of the employees. This, in my opinion, is the requirement of ss. 397 and 398 of the Companies Act."*

The captioned issue was discussed by Hon'ble Kerala High Court in Palghat Exports Private Ltd. v. T.V. Chandran [1994 79 CompCas 213 Ker], wherein some of the observations were:

*"17. At the foreground, when examining the factual situation emerging in a case, the courts have to caution themselves that the oppression is the core element to be proved and the nature of oppression to be tested in the context of "cause for winding up".*

*But it has to be remembered that the provision is intended to avoid winding up and to mitigate and alleviate oppression. The relief under Section 397 of the Act is geared to help the members who were oppressed. The relief under Section 398 of the Act is geared to save the company and it is in the interest of the company alone and not to any particular member/members.*

*…19. The expressions "oppression" and "mismanagement" which are the core concepts in the section are left by the Legislature without defining them. When once it is left without definition, the task of the court is difficult and more responsible. Naturally, the court will always incline to wade through precedents to find out and to assign the correct meaning of these two words "oppression" and "mismanagement" in the context in which they are used. Certainly, the courts have to decide on the facts of each case as to whether there is a real cause of action under Section 397 or 398 of the Act."*

Some of more judicial pronouncements, bringing out a non-exhaustive list indicating certain acts of the controlling shareholders to be/not be oppressive to minority shareholders, are as follows:

GENERAL

1. The Hon'ble Supreme Court in Shanti Prasad Jain v. Kalinga Tubes Ltd. [(1965) 35 Comp Cas 351 (SC)], considering the two leading English cases i.e. Scottish Co-operative Wholesale Society Ltd. v. Meyer [(1958) 3 All ER 66] and In re H.R. Harmer Ltd. [(1959) 29 Comp Cas 305 (CA)], made the following observation:

   *"... the question in each case is whether the conduct of the affairs of a company by the majority shareholders was oppressive to the minority shareholders and that depends upon the facts proved in a particular case ... It is not enough to show that there is just and equitable cause for winding up the company, though that must be shown as preliminary to the application of Section 397. It must further be shown that the conduct of the majority shareholders was oppressive to the minority as members and this*

*requires that events have to be considered not in isolation but as a part of a consecutive story. There must be continuous acts on the part of the majority shareholders, continuing up to the date of petition, showing that the affairs of the company were being conducted in a manner oppressive to some part of the members. The conduct must be burdensome, harsh, and wrongful and mere lack of confidence between the majority shareholders and the minority shareholders would not be enough unless the lack of confidence springs from oppression of a minority by a majority in the management of the company's affairs, and such oppression must involve at least an element of lack of probity or fair dealing to a member in the matter of his proprietary rights as a shareholder."*

2. It is pertinent to note that in re H.R. Harmer Ltd.[(1959) 29 Comp Cas 305 (CA)], it was held that *"the word 'oppressive' meant burdensome, harsh and wrongful"*. Further, it was held that *"the section does not purport to apply to every case in which the facts would justify the making of a winding up order under the 'just and equitable' rule, but only to those cases of that character which have in them the requisite element of oppression"*. It was also held that *"the result of applications under Section 210 in different cases must depend on the particular facts of each case, the circumstances in which oppression may arise being so infinitely various that it is impossible to define them with precision."*

   Further it was also observed that, *"Usurping the power and obtaining the entire power and exercising it against the wishes of the shareholders who are in minority with regard to voting power."*

3. The Hon'ble Kerala High Court in Palghat Exports Private Ltd. v. T.V. Chandran [1994 79 CompCas 213 Ker] identified the following inference from Re. H.R. Harmer Ltd.:

   *"The facts of the case should disclose and unfold to invite an inference that there had been at least, an unfair abuse of powers and an impairment of confidence in the probity with which the company's affairs are being conducted, as distinguished from mere*

*resentment on the part of a minority at being outvoted on some issue of domestic policy."*

4. It is also notable that under Section 241 of the Act, it is obligatory on the part of the complainant to establish "persistent and persisting course of unjust conduct" (as observed in Elder v. Elder and Watson (1952) SC 49 and Scottish Co-operative Wholesale 'Society Ltd, v. Meyer (1958) 3 All ER 66).
5. Sheth Mohanlal Ganpatram v. Shri Sayaji Jubilee Cotton and Jute Mills Co. Ltd. [(1964) 34 Comp Cas 777]:

   "...being designed to suppress an acknowledged mischief, they should receive liberal interpretation and the court should give such construction as will advance the remedy ..."

6. The observations of Lord Denning in Scottish Co-operative Wiwlesole Society Ltd. V. Meyer [(1958) 3 All ER 66, 89]:

   *"But it would be wrong to infer therefrom that the remedy is limited to cases where the company is still in active business. The object of the remedy is to bring 'to an end the matters complained of that is, oppression, and this can be done even though the business of the company has been brought to a standstill."*

IN FAVOUR OF MINORITY

7. Scottish Co-operative Wholesale Society Ltd. v. Meyer [(1958) 3 All ER 66]:

   *"When the power exercised by the controlling shareholders is directed or necessarily towards destroying the company's business operations."*

8. P & B High Court in Mohan Lal Chandumall v. Punjab Co. Ltd. [(1962) 32 Comp Cas 937 (Punj)]:

*"Denying voting rights to the shareholders expressly or by necessary implication."*

9. In Re Hindusthan Co-operative Insurance Society Ltd. [(1961) 31 Comp Cas 193 (Cal)]:

   *"If the directors refuse to distribute compensation money obtained on nationalisation of the company."*

   Or, *"The company undertaking businesses other than those mentioned in the objects clause without calling a general meeting or passing a resolution."*

10. B.R. Kundra v. Motion Pictures Association [(1978) 48 Comp Cas 536 (Delhi)]:

    *"Exercising the power by majority to expel members."*

11. Sishu Ranjan Dutta v. Bhola Nath Paper House Ltd. [(1983) 55 Comp Cas 883 (Cal)]:

    *"Deadlock created in carrying out the affairs of the company due to lack of faith between two factions of the family."*

    Or, *"The directors and managing directors consistently not functioning in their office."*

12. Chander Krishan Gupta v. Pannalol Girdhari Lal Pvt. Ltd, [(1984) 55 Comp Cas 702 (Delhi)]:

    *"The directors not taking interest in the affairs of the company and always quarrelling so as to cause loss to the company."*

13. In Re Combust Technic Pvt. Ltd. [(1986) 60 Comp Cas 872 (Cal)]:

    *"In a company where there are only two shareholders and who are directors and one director who has got majority shares refuses to cooperate with the affairs of the*

*company and exhibiting mutual lack of confidence not to be settled otherwise than by taking it to court, by mutual domestic policy."*

14. Kumar Exporters P. Ltd. v. Naini Oxygen and Acetylene Gas Ltd. [(1986) 60 Comp Cas 984 (All)]:

*"If the directors refuse to register shares in the name of the complaining petitioners with an object to retain control over the affairs of the company."*

15. Palghat Exports Private Ltd. v. T.V. Chandran [1994 79 CompCas 213 Ker]:

*"...27. The learned company judge considered the principal distinction in the meanings of the words "business" and "affairs" and observed that "affairs" in the context of the life of a company means things to be done or business to be conducted. The Companies Act requires certain acts to be done even by a company which has no business or commercial activity to run. These include filing of annual returns, holding annual general meetings, filing reports, preparation and filing of balance-sheet and profit and loss account, appointment of auditors and so on. These are part of the things to be done or business to be conducted by the company, notwithstanding the fact that it has no assets and its business is closed down. The learned company judge adverted to this distinction in the context that the company in question ceased to run the restaurant and departmental store. The company court observed that even though the company ceased to run the business it continued as a legal entity and as such it has to function as a company. The learned company judge also referred to the meaning that has to be given to the word "business" and observed: "It takes in everything required to carry on the commercial activity" and ultimately said that "affairs" is a word of wider import taking in its sweep everything and every business to be done by a company.*

*We agree with the company judge that a company which ceased to have any business cannot be exempted from the sweep of Section 397 of the Act."*

IN FAVOUR OF MAJORITY

16. In Lalita Rajya Lakshmi v. Indian Motor Co. (Hazaribagh Ltd.) [AIR 1962 Cal 127]

    The court held that denial of access to, or inspection of, the books of account of the company to the petitioner may not amount to an act of oppression.

17. In N. Krishna Prasad v. Andhra Bank Ltd. [(1983) 53 Comp Cas 73 (AP)]

    It was held that an attempt to get a majority by lawful means is not an act of oppression within the meaning of Section 397 of the Act.

18. Similarly, in Shanti Prasad Jain v. Kalinga Tubes Ltd. [(1965) 35 Comp Cas 351]:

    The Supreme Court found that issuing of shares by the majority shareholders to their friends or outsiders would not amount to an act of oppression. In the same case, it was held that mere loss of confidence amongst different groups of shareholders due to non-distribution of new shares to the existing shareholders would not amount to an act of oppression.

19. In S.R. Subramanian v. Drivers and Conductors Bus Service Private Ltd. [(1978) 48 Comp Cas 672 (Mad)]:

    It was held that failure to forward the statutory report in the case of a private limited company is not an act which can be considered as an act of oppression to invite an action under Section 397 of the Act.

20. In South India Viscose Ltd. v. Union of India [(1982) 52 Comp Cas 247 (Delhi)]

    It was held that mere contravention of some provisions of law by the board and actions being unwise or not prudent may not amount to an act of oppression.

21. In Suresh Kumar Sanghi v. Supreme Motors Ltd. [(1983) 54 Comp Cas 235 (Delhi)]; In Re Motion Pictures Association [(1984) 55 Comp Cas 375 (Delhi)]:

    The courts in these cases held that past acts which have come to an end would not be taken for the purpose of invoking the court's jurisdiction under Section 397 of the Act.

22. In Chander Krishan Gupta v. Pannalal Girdhari Lal Pvt. Ltd. [(1984) 55 Comp Cas 702 (Delhi)]:

    The court held that stray illegal acts or isolated acts of the controlling shareholders cannot be used as a ground for an action under Section 397 of the Act.

23. Needle Industries (India) Ltd. v. Needle Industries Newey (India) Holding Ltd. (1981) 51 Comp Cas 743 wherein the Supreme Court observed that:

    *"It is clear from these various decisions that on a true construction of Section 397, an unwise, inefficient or careless conduct of a director in the performance of his duties cannot give rise to a claim for relief under that section. The person complaining of oppression must show that he has been constrained to submit to a conduct which lacks in probity, conduct which is unfair to him and which causes prejudice to him in the exercise of his legal and proprietary rights as a shareholder."*

24. Sheth Mohanlal Ganpatram v. Shri Sayaji Jubilee Cotton and Jute Mitts Co. Ltd. [(1964) 34 Comp Cas 777 (Guj)]:

    The Hon'ble Gujarat High Court held that: *(i) Sections 397 and 398 apply to present continuous wrongs; (ii) the remedy is essentially preventive; (iii) there must exist on the date of the petition a continuous course of oppressive, or prejudicial conduct of the affairs of the company; (iv) there is no power in the court to set aside or interfere with past and concluded transactions between a company and third party. We do not want to emphasise the fact that the remedy envisaged in Section 397 of the Act is not intended*

*to set at naught what has already been done by the controlling shareholders in the management of the affairs of the company.*

25. In Re Thakur Hotel (Simla) Company (Private) Ltd. [(1963) 33 Comp Cas 1029]:

*"Mismanagement or misconduct of directors during earlier years is no ground for winding up a company under the "just and equitable" clause or for making an order under Section 397 if the mismanagement had ceased at the time of the application. The object of Section 397 is not to rake up the past but to redeem the future".*

26. In Rajahmundry Electric Supply Corporation Ltd. v. A. Nageswara Rao, [(1956) 26 Comp Cas 91]:

*"Where nothing more is established than that the directors have misappropriated the funds of the company an order for winding up would not be just or equitable, because, if it is a sound concern, such an order must operate harshly on the rights of the shareholders".*

27. In Shanti Prasad Jain v. Kalinga Tubes Ltd. [(1965) 35 Comp Cas 351]:

*"The oppressive acts must be continuous on the part of the majority shareholders and those acts should continue up to the date of petition showing that the affairs of the company were being conducted in a manner oppressive to some part of the members."*

28. In Surinder Singh Bindra v. Hindustan Fasteners (P.) Ltd. [(1990) 69 Comp Cas 718 (Delhi)]:

*"There have to be continuous acts complained of continuing up to the date of the petition showing that the affairs of the company are being conducted in a manner oppressive to some part of the members or in a manner prejudicial to public interest or in a manner prejudicial to the interest of the company.*

*...It cannot be said that the events which occurred three years prior to the date of filing of the petition cannot be looked into if those events form continuous acts complained of continuing up to the date of petition. These can be looked into if they form part of a continuous process continuing up to the date of petition showing that the affairs of a company are being conducted in a manner stipulated in Sections 397 and 398 of the Act."*

29. In Killick Nixon Limited v. Bank of India [(1985) 57 Comp Cas 831]:

*"...under Sections 397 and 398 of the Act any personal grievance of a member himself is not contemplated. The cause of action under Section 397 is the conduct of the affairs of a company in a manner prejudicial to public interest or in a manner oppressive to any member or members of the company."*

30. In Re Bellador Silk Ltd. [(1965) 1 All ER 667, 671 (Ch D)]:

*"This English precedent sheds light on what the court should do in case the petition is filed for purpose of obtaining the money from the company. The court said that, "the ulterior purpose of the petitioner makes the petition not bona fide and if the petition is not bona fide, the court is bound to reject it. If the object of a petition is to recover money from the controlling shareholders, it is an abuse of the process of the court and on that ground the petition should be dismissed."*

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The words "Oppression" and "Mismanagement" been not defined by the legislature, leaves their enlargement completely to the discretion of the Hon'ble NCLTs. Some of the related judicial pronouncements have been mentioned above, which guide us to partially come to a conclusion as to which events/acts/conducts constitute Oppression and Mismanagement and which of them do not.

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