

## THE BOARD OF DISCIPLINE

### THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

ICSI/DC/NI/2014

In the information received against Mr. M Damoraran, FCS No. 5837 (CP No. 5081).

Date of decision: 14<sup>th</sup> August, 2014

**Coram:** Mr. P K Mittal, Presiding Officer  
Mr. Sutanu Sinha, Member

### ORDER

1. A letter dated 21<sup>st</sup> January, 2014 was received from the Ministry of Corporate Affairs) (hereinafter referred to as 'Informant') along with the copy of the complaint dated 4<sup>th</sup> December, 2013 of Shri K. Prabhakar Reddy against Mr. M. Damodaran, FCS-5837 (CP No. 5081) (hereinafter referred to as the 'Respondent'). Pursuant to Rule 7 of the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 (the Rules), a letter dated 30<sup>th</sup> January, 2014 was sent to Mr. K Prabhakar Reddy asking him as to whether he would like to file the complaint in Form-I.
2. Mr. K Prabhakar Reddy, *inter-alia* stated that he and Mr. K Ravikanth Reddy were the directors of M/s. Lokankara Realtors Pvt. Ltd., since 12<sup>th</sup> December, 2012 and the company had filed necessary Form 32 with the ROC, Andhra Pradesh in this regard. He further stated that on 2<sup>nd</sup> December, 2013 it was seen on the MCA portal that four more directors were inducted in M/s. Lokankara Realtors Pvt. Ltd., namely (i) Mr. Ramakoteswara Rao Paruchuri (ii) Mr. Vijai Gopal Pudota (iii) Ms. Lakshmi Narayana Murthy Adapaka and (iv) Mr. Suneel Vohra. He further stated that Form 32 filed for their appointment as directors of the company by using his co-director's Digital Signature Certificate (DSC), was used by the Respondent without the authorization of the signatory and the Board. He further stated to file a criminal case under the Information Technologies Act, 2000 for unauthorized and frequent use of the DSC and filing false statement with the ROC without the consent of the director authorised to sign the Form.
3. Pursuant to sub-rule (3) of rule 8 of the Rules, a copy of the complaint was sent to the Respondent *vide* letter dated 31<sup>st</sup> March, 2014 calling upon him to submit his comments, if any, which was received back in the Institute as undelivered. Further another letter dated 9<sup>th</sup> June, 2014 was sent to the Respondent calling upon him to submit his comments, if any. The Respondent submitted his comments dated 21<sup>st</sup> June, 2014 wherein the Respondent *inter-alia* denied all the allegations levelled



*Sutanu Sinha*

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*[Signature]*

against him and stated that he is unrelated to M/s. Lokankara Realtors Pvt. Ltd., as far as it's pecuniary and contractual dealings are concerned. He further stated that the Complainant is attempting to make him escape goat for *mala-fide* purpose. The Respondent further stated that in regard to the allegation about the usage of the DSC of Mr. Ravikanth Reddy Kandada without the authorization of the signatory and the Board, it is stated that the DSC was handed over to him by Mr. Balakrishnan, who is an employee of M/s. Lokankara Realtors Pvt. Ltd., and its other group companies and he had certified the alleged Form 32 and uploaded the same based on the original signed consent letter(s) from the shareholders, extract of Minutes of EOGM, Minutes and attendance sheet along with the DSC of Mr. Ravikanth Reddy Kandada. He further stated that the usage of Digital Signature is the signatory's responsibility. One should exercise due care before entrusting his/her DSC along with the password to another. The ultimate responsibility of having DSC in his custody lies with Mr. Ravikanth Reddy Kandada. The Respondent further stated that he was authorized by the company which had also informed him to use the DSC of Mr. Ravikanth Reddy Kandada to upload the Forms for which the instant complaint is filed and he, therefore proceeded with the same as an independent professional, not privy to the custodial arrangement of a director's DSC and sub-delegation for his own benefits (Doctrine of Indoor Management) and for this obligation and duty to do the same. The Respondent further stated that hence, the allegation of use of digital signature without any authorization is not true.

4. A letter dated 4<sup>th</sup> July, 2014 was sent to the Respondent seeking certain clarifications to which he responded *vide* letter dated 19<sup>th</sup> July, 2014. Pursuant to rule 9 of the Rules, the Director (Discipline) after examination of the material on record, observed that the Respondent had certified the alleged Form 32 and uploaded the same based on the original signed consent letter(s) from the shareholders, extract of Minutes of EOGM, Minutes and attendance sheet along with the DSC of Mr. Ravikanth Reddy Kandada. The Respondent has also submitted the documents relied by him *vide* letter dated 19<sup>th</sup> July, 2014. So it can be seen from the records that the Respondent did exercise reasonable due diligence and therefore, the Respondent is *prima-facie* not guilty of professional misconduct under the Company Secretaries Act, 1980.
5. The Board at its meeting on 14<sup>th</sup> August, 2014 considered the *prima-facie* opinion dated 2<sup>nd</sup> August, 2014 of the Director (Discipline); the material on record and agreed with the *prima-facie* opinion. The Board observed that the Respondent had certified the alleged Form 32 and uploaded the same based on the original signed consent letter(s) from the shareholders, extract of minutes of EOGM, Minutes and attendance sheet along with the DSC of Mr. Ravikanth Reddy



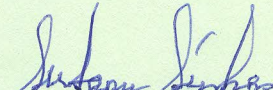
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Kandada and he had also submitted the copies of all the documents he relied upon for certification of the alleged Form 32.

6. We after considering the material on record, conclude that Mr. M. Damodaran, FCS-5837 (CP No. 5081), the Respondent is not guilty of professional or other misconduct under the Company Secretaries Act, 1980 and close the matter.

Accordingly, the complaint stands disposed-off.

  
(Sufanu Sinha)  
Member

  
(P. K. Mittal)  
Presiding Officer

Date: 5<sup>th</sup> September, 2014

