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TATA v MISTRY [Day 6]

Hearing to resume before Supreme Court in a short while from now.

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TATA v MISTRY

Senior counsel Shyam Divan begins arguments on behalf of Shapoorji Pallonji group.

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TATA v MISTRY

This case is about corporate governance. We have moved from corporate democracy to a much richer corporate governance under the amended Companies Act: Divan

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TATA v MISTRY

The management of company is the board. The most crucial obligation imposed on Director now is that the director is a fiduciary. A fiduciary's allegiance is to the company alone: Divan

#SupremeCourt #tatasons

TATA v MISTRY

Lack of probity is much broader than financial irregularities.

The long relationship between the two groups developed over decades. It developed in the context of a statutory framework which restricted the role of private trust: Divan.

TATA v MISTRY

There was a beach of articles in the removal of Cyrus Mistry: Divan

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TATA v MISTRY

Management has to be by the board as per the articles and the statute.

Termination of managing director has to be by a resolution. The same process as is followed for appointment has to be followed: Divan

TATA v MISTRY

Section 166 is very very important. It lays down duties of Directors.

If you are torn between allegiance to company and allegiance to something else, then you cannot act as a Director: Divan.

TATA v MISTRY

Director cannot abdicate or yield on his/her independent judgment. Director may consult or take advice but has to act independently and cannot be compelled or coerced: Divan

TATA v MISTRY

Two directors had praised Mistry for his performance as Executive Chairperson four months before his removal. Those two directors did not even file their response explaining their conduct: Divan.

#tatavmistry #tata #mistry

TATA v MISTRY

Supreme Court says it is intending to make certain observations on the procedure to be followed by tribunals. This was in the context of whether plea before NCLAT should have been amended by way of amendment applications or additional affidavits.

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TATA v MISTRY

The selection of Tata Sons chairperson is crucial. It affects so many companies and stakeholders across countries and continents: Divan

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TATA v MISTRY

Ratan Tata is not subject to the discipline under Section 166 of the Companies Act. He ceased to be board member in December 2012 and did not attend a single board meeting till October 2016: Divan

TATA v MISTRY

Shyam Divan reading case laws on corporate governance and fiduciary duties of Director stating how the Companies Act moved from corporate majority to corporate governance.

TATA v MISTRY

Divan says TATA Trusts could not vote on its own shares between 1964 and 2000 due to statutory restrictions and it was a public trustee appointed by Central government who could vote on your shares: Divan

TATA v MISTRY

That was when Shapoorji Pallonji because of their relationship with Tata became a reliable partner who could vote and that is why Tata sold their shares to SPG. This continued till public trustee mandate was done away with in 2000 and Tata Trusts could vote : Divan

TATA v MISTRY

Divan giving history of Shapoorji Pallonji group's relationship with TATA group and how various SP group persons served on board of various Tata group companies.

The relationship is 5 decades old of which 4 was during public trustee regime: Divan

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The relationship was of one utmost trust and good faith. The only thing we asked for was a place on the board which is recognised under Companies Act of 2013: Divan

TATA v MISTRY

Hence, the removal of Mistry was illegal, oppressive and against good faith and trust which Tata and Shapoorji Pallonji group shared: Divan

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TATA v MISTRY

Bench rises for the day. Hearing to continue tomorrow.

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