

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

I.A No. 80/18

IN

C.P. No. 35/2007(T.P No. 04/2016)

U/R 11 of NCLT, Rules 2016

In the matter of

Sri K. Rajaiah – Director,

Chamundesware Studios Laboratory Private Limited,

No.48, Millers Tank Bund Road,

Bangalore-560052 - (Represented by L.R.R. Vijay Krishna and another
Applicants)

And

1. M/s Chamundesware Studios Laboratory Private Limited,
No.48, Millers Tank Bund Road,
Bangalore-560052.
2. Smt. Rajalakshmi Sadagopan,
At 1st Floor, No.48, Millers Tank Bund Road,
Bangalore-560052.
3. Shri R. Sadagopan,
At 1st Floor, No.48, Millers Tank Bund Road,
Bangalore-560052.
4. Smt. T. Gayatri alias Gayatri Varadarajan,
At 1st Floor, No.48, Millers Tank Bund Road,
Bangalore-560052.
5. K.K. Foundation and Public Charitable Trust,
No.48, Millers Tank Bund Road,
Bangalore-560052.

Respondents

Coram: 1. Hon'ble Shri Rajeswara Rao Vittalana, Member (Judicial)

2. Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

Date of Order: 25th June, 2018

For the Petitioner(s): Shri K.V Satish, Advocate alongwith Shri B. Karyappa,
Advocate

For the Respondents: Shri K.Venkatramani, Advocate

Per: Rajeswara Rao Vittalana, Member (Judicial)



ORDER

- 1) The Interlocutory Application bearing I.A No. 80/2018 in C.P No. 35/2007 is filed by Shri R. Vijay Krishna and another legal representatives of late Shri K. Rajaiah, under Rule 11 of the NCLT Rules, 2016 by inter-alia seeking to permit the legal heirs of Late Shri K.Rajaiah viz., Shri R. Vijay Krishna and Smt. Swarnalatha Rajaiah to be brought on record in the main Company Petition under the Hindu Succession Act 1956 due to the death of Shri K. Rajaiah on 16/02/2018.
- 2) The issue raised in the main Company Petition is the transfer of 14,400 shares in aggregate, in favour of Respondent Nos. 2 to 4 and also in favour of K.K. Foundation and Public Charitable Trust etc.,
- 3) The Application is opposed by R1 to R5 by inter-alia contending as follows:-
 - (a) The original Petition is filed by late K.Rajaiah in the capacity of Director of R1 Company, and not as a shareholder, and his right, if any, to file the main Company Petition was personal to him and on his death right, if any, would abate. Therefore, the main C.P is itself abated and no purpose will be served to permit the petitioner to come on record.
 - (b) The deceased Petitioner was holding only 1 (one) No. of equity shares of Rs 100/- i.e., around 0.0003% of the total paid up capital in R1 Company, which is less than the stipulated requirement mandated both under erstwhile Companies Act, 1956 and present Companies Act, 2013.
 - (c) The legal heirs of the deceased Petitioner have not yet approached the company or any members of the company, in any manner whatsoever to seek transmission of shares held by the deceased petitioner. Since deceased petitioner hold 1 (one) equity shares, the legal heirs have to specify to whom the share of the deceased petitioner should go.
- 4) Heard Shri K.V.Satish, learned Senior Counsel alongwith Shri B. Karyappa, Counsel for Applicants/Petitioner and Shri K.Venkataramani, the learned Counsel for Respondent No. 1 to 5 and perused the records.

- 5) The main C.P is filed by late K. Rajaiah by inter-alia seeking to declare the transfer of 14,400 shares in aggregate in favour of R2 to R4 and also in favour of K.K. Foundation and Public Charitable Trust (R5) represented by R2 and R3 is illegal and void etc.,
- 6) The learned Counsel for Applicants/Petitioner relied upon the following judgement in support of his claim that the Company Petition is still maintainable, even though Petitioner died.
- i) Civil Appeal No.5186/1989 – M/s World Wide Agencies Private Limited and another Vs Mrs. Margarat T.Desor and other – Order dated 19/12/1989 of the Supreme Court of India (Manupatra)
 - ii) Company Appeal No.16/1972 – Jawahar Singh Bikram Singh Private Limited and another Vs Sharda Talwar w/o Kishan Talwar – Order dated 13/02/1973 of the Supreme Court of India (Manupatra)
 - iii) Company Petition No.32/1987 – Srikanta Datta Narasimharaja Wadiyar Vs. Venkateswara Real Estate Enterprises (Pvt.) Ltd., and Ors. – order dated 11/08/1988 of the High court of Karnataka (Manupatra)
- 7) As stated supra, the main issue raised in the Company Petition, is with regard to the transfer of 14,400 shares in question, and whether the deceased petitioner is entitled for these shares, apart from other relief, has to be considered, and thereafter only, succession to the legal representatives will arise. It is not the case here that, the deceased petitioner is holding only 1 (one) share. Therefore, the legal representatives should be permitted to come on record so as to consider, whether the deceased person is entitled for the impugned shares or not.
- 8) In the result I.A 80/18 in C.P No.35/2007 (T.P No. 04/2016) is allowed by permitting legal representatives namely Shri R. Vijay Krishna and Mrs. Swarnalath Rajaiah to come on record as legal representatives of the deceased Petitioner and consequently, directed to file amended Company Petition within a period of one week from the date of receipt of copy of this order, duly servicing a copy on other side.


(ASHOK KUMAR MISHRA)
MEMBER, TECHNICAL


(RAJESWARA RAO VITTANALA)
MEMBER, JUDICIAL