

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

I.A.No. 09/2017  
in  
T.P.No. 290/2016  
in  
C.A.No.1/2016  
in  
C.P.No.49/2005

**IN THE MATTER OF COMPANIES ACT, 2013**

**&**

**UNDER RULE 53 OF NCLT RULES 2016**

**In the matter of Ansar Khan Kalimulla Shariff & Another  
Vs  
Finecore Cables Private Ltd**

**Order delivered on 7<sup>th</sup> August 2017**

Coram: Hon'ble Shri Ratakonda Murali, Member (Judicial)  
Hon'ble Shri Ashok Kumar Mishra, Member (Technical)

For the Petitioner (s) R.C.Venkatesh Rao ,.Advocate

For the Respondent(s) Nitya Kalyani, .Advocate

Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)

Heard on: 09.03.2017, 13.04.17, 28.04.17, 05.06.2017, 19.06.2017, 27.6.2017, 07.07.2017,

**O R D E R**

Application is filed under Rule 53 of NCLT Rules 2016 to induct legal heirs of deceased applicant by name Fazlulla Shariff in T.P. No. 290 / 2016 in C.A.No. 01 / 2016 in C. P. No. 49 / 2005.

It is stated in the affidavit that above application is filed to implead the legal heirs of deceased Fazlulla Shariff who died on 09.09.2016. It is stated that they have filed the death certificate as well succession certificate to the effect they are successors to the estate of late

Fazlulla Shariff and they may be brought on record. The respondents have filed detailed statement of objections. The averments in the objections are briefly noted hereunder:-


It is stated in the objections that the present application deserves to be rejected on the ground applicants failed to prove that they are the legal heirs of late Fazlulla Shariff and that they are entitled for the shares of late Fazlulla Shariff. It is further averred the Applicants have not preferred any application to the Board of Directors of the Company for transmission of shares held by late Fazlulla Shariff in their name/s. The applicants are therefore strangers to the company and they cannot be impleaded. It is further averred applicants have not so far initiated any appropriate action under law for declaration that they are entitled to the shares of late Fazlulla Shariff. Therefore the applicants are neither proper nor necessary parties and they cannot be added as legal heirs of late Fazlulla Shariff. Therefore it is prayed that petition to be dismissed.

Heard both sides.

Late Fazlulla Shariff was Respondent No.2 in C.P.No. 49 / 2005. His wife Mrs. Kaneez Fathima was Respondent No.3. The petitioners 1 and 2 filed C.P.No. 49 / 2005, against Late Fazlulla Shariff and his wife. After disposal of C.P.No.49/2005, the petitioners filed C.A.No. 01 / 2016 against late Fazlulla Shariff and Mrs. Kaneez Fathima when this C.A.No. 01 / 2016 was originally pending before Company Law Board (CLB) Chennai, it was transferred to this Tribunal and numbered as T.P. No. 290 / 2016. The Respondent No.2 to the main petition Fazlulla Shariff died on 09.09.2016, during pendency of the case. Now the legal heirs of late Fazlulla Shariff filed this application I.A.No. 09 / 2017, to implead them as the legal heirs of deceased Fazlulla Shariff. Already, Mrs. Kaneez Fathima wife of Fazlulla Shariff was a party to the petition. The applicants are the legal heirs of late Fazlulla Shariff. They are sons of late Fazlulla Shariff. The proposed parties can be brought

on record being the legal heirs of late Fazlulla Shariff. The right to sue survives to the legal heirs of late Fazlulla Shariff. C.A.No. 01 / 2016 was filed by the petitioners in the main petition for enforcement of certain directions passed by the Company Law Board (CLB) Chennai. Therefore proposed parties are to be impleaded being the legal heirs of late Fazlulla Shariff. We do not find any ground to reject the application filed for impleading the legal heirs. The legal heirs of late Fazlulla Shariff may initiate separate action as per law regarding transmission of shares. This cannot be a ground to reject the application filed by the legal heirs. It is for the petitioners in C.A.No. 01 / 2016 to bring the legal heirs of late Fazlulla Shariff on record. However the legal heirs themselves moved this application to implead them. The death of late Fazlulla Shariff is not in dispute. Applicants are the sons of late Fazlulla Shariff. Therefore there are grounds to allow the petition.

In the result application IA9/2017 is allowed. Applicants are permitted to be impleaded as respondents in the petition CA1/2016.

  
(RATAKONDA MURALI)  
MEMBER, JUDICIAL  
DATED THIS THE

  
(ASHOK KUMAR MISHRA)  
MEMBER, TECHNICAL  
DAY OF AUGUST, 2017