

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH AT HYDERABAD**

CP No. 15/111/CB/2016

(TP No. 151/HDB/2016)

Date of Order: 24.03.2017

Between

The Oriental Insurance Company Ltd
No.4, Magnet House,
3rd Floor, Narottam Morarjee Marg,
Ballard Estate,
Mumbai – 400001

... Petitioner



AND

1. Dr. Reddy's Laboratories Ltd
8-2-337, Road No.3, Banjara Hills,
Hyderabad – 500034
2. Bigshare Services Pvt Ltd
306, Right Wing, 3rd Floor,
Amrutha Ville, Opp. Yashodha Hospital
Rajbhavan Road, Somajiguda
Hyderabad – 500082
3. Linn Financial Services Ltd
101, Prathima,
Xanadu Apartments, 6-3-532,
Dwaraka Puri Colony, Panjagutta
Hyderabad – 500082

**CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL**

4. Mr. Anil Sharma

C/o 33, Raghavratna Towers,
Chirag Ali Lane, Nampally,
Hyderabad – 500001

.... Respondents

Counsel for the Petitioner:

Sh. Kamal Agarwal

Counsel for the Respondents:

Sh. V.S. Raju

along with Sh. V.B. Raju

CORAM:

Hon'ble Mr. Ravikumar Duraisamy, Member (Technical)

Hon'ble Mr. Rajeswara Rao Vittanala, Member (Judicial)

ORDER

(As Per Ravikumar Duraisamy, Member (T))

1. The Application was initially filed before the then Hon'ble Company Law Board, Chennai Bench, Chennai (CLB). Since the National Company Law Tribunal (NCLT), Hyderabad Bench, has been constituted for the cases pertaining to the states of Andhra Pradesh and Telangana, the case is transferred to the Hyderabad Bench of NCLT. Hence, we have taken the case on records of NCLT, Hyderabad Bench and deciding the case.
2. The present Petition has been filed by the Oriental Insurance Company limited (hereinafter referred as "Petitioner") under Section 59 of the Companies Act, 2013, interalia seeking the following reliefs:
 - a. Decide that the Petitioner is entitled for 800 shares of the Respondent No.1 due against 200 original shares of Rs.10/- each of the Respondent No.1 Company bearing Certificate Nos. 117545 and 121952 and Distinctive Nos. 8406799-898 and 8812997 – 3096.
 - b. Direct Respondent No.1 to rectify its Register of Members in respect of 800 shares of Rs. 5/- each of Respondent No.1 due against 200 original shares of Rs.10/- each of the Respondent No.1 bearing



Certificate Nos. 117545 and 121952 and Distinctive Nos 8406799-898 and 8812997 – 3096 and insert the name of the Petitioner as holder of the said 800 shares by deleting the name of Respondent Nos. 4 and 5.

- c. Direct Respondent No.4 to issue new certificate in the name of the Petitioner in lieu of 800 shares of Respondent No.1 by cancelling certificates standing in the name of Respondent Nos. 4 and 5 and pay all accrued dividend.
3. It is noted that the Hon'ble CLB has granted permission on 17.02.2016 to the Petitioner to make substituted service in newspaper, because the CP sent earlier to R.3 and R.4 could not be served and the same was returned undelivered and posted the matter for hearing on 21.03.2016.



Accordingly, the Petitioner has submitted an Affidavit of substituted services on R.3 and R.4 by publishing a notice in English Newspaper "Business Standard" dated 14.04.2016 and in Telugu News Paper "Nava Telangana", dated 14.04.2016 intimating the date of hearing as 15.06.2016 fixed before the Hon'ble Company Law Board, Chennai.

From the perusal of the records it is noted that the claim of R.3 was settled by the petitioner as way back in the year 1997.

4. Subsequent to the transfer of the case from CLB, Chennai, the matter was posted before this Bench on 05.08.2016. When the case was posted on 16.08.2016, the representative on behalf of the petitioner submitted that he does not want to press any relief against R.2 and he may be permitted to relieve R.2 from the array of parties and the same was permitted by this Bench. In compliance with the directions given by this Bench the petitioner has served the intimation of next date of hearing fixed as on 13.09.2016 to R.3 and R.4 by publishing in Business Standard on 27/28-8-2016 and in Telugu (Nava Telangana) dt.27.08.2016. Since, the earlier date of hearing fixed by the CLB

could not take place, the petitioner was provided with another opportunity to make Newspaper publication. From the records no representative of R.3 and R.4 appeared in this case.

5. The brief facts of the case as mentioned in the Petition are as follows:

(a) The insured, being a member of NSE has purchased an insurance policy from the Petitioner under Policy No.97/782 wherein the Petitioner had agreed to indemnify the Insured for certain losses including loss of shares. The Petitioner further states that the said policy also covered losses suffered by the insured form loss of securities as during the relevant time the transactions at NSE were settled in the physical form.

(b) In the usual course of broking business, the insured has executed transactions for purchase of 200 shares of Respondent No.1 on behalf of the clients through the NSE during the settlement No.1996032 (period 7th August 1996 to 13th August 1996). The Petitioner further states that after completion of settlement, NSE had issued delivery detail settlements and final obligation statement in the name of the insured for the purpose of completing pay-in obligation and collecting delivery of certificates of said 200 shares from the Clearing House of the exchange as pay-out. The Petitioner further states that the Insured settled the payment of consideration for purchase of said 200 shares of Respondent No.1 on consolidated basis through the Clearing Corporation of NSE and thereafter received delivery of certificates of the said shares. The Insured therefore acquired all beneficial interest, right and title on the said 200 shares of Respondent No.1 for valuable consideration through NSE as Trading Member of NSE. The details of certificate of 200 shares of Respondent No.1 are as under:-

S.No.	No of Shares	Certificate No.	DNR
1	100	117545	8406799-898
2	100	121952	8812997-3096
	200		



(c) The Petitioner states that the certificate of said shares along with transfer deeds executed by Respondent Nos 4 and 5 were kept in the office of the insured for the purpose of delivering to the ultimate buyer of the said shares through the insured. However, the certificate of said shares alongwith transfer deeds duly executed by Respondent Nos. 4 & 5 got loss from the office of the Insured. Immediately after realizing loss of certificates and transfer deeds, the Insured by their letter dated 24th October 1996 intimated Respondent No.1 about loss of shares and provided them with proof of purchase and receipt of delivery with the request to mark stop transfer against the certificate of the said shares.

(d) The Petitioner states that the Insured thereafter filed a complaint dated 29th October 1996 with the Panjagutta Police Station for loss of shares and the complaint for the Insured was registered by the Police and the Police Department has issued a certificate dated 06th November 1996.

(e) The Petitioner states that the Insured thereafter filed a suit No.393 of 96 before the Hon'ble IIIrd Additional Judge, City Civil Court, Secuderabad, for necessary injunction order. The Advocate, Mr N.P. Sangam, of the Insured by a letter dated 14th November 1996 intimated all the companies including Respondent No.1 that the Insured has filed a suit and he will be moving an Application No.1183 of 96 on 20th November 1996 for necessary orders and reliefs.

(f) The Petitioner states that the Hon'ble IIIrd Additional District Judge, City Civil Court, Secunderabad, after hearing the counsel of the Insured passed an order dated 31st December 1996 and restrained the Respondents including Respondent No.1 from transferring the shares to any other person. The Hon'ble IIIrd Additional Judge, City Civil Court, Secunderabad had also issued a summons and listed the matter for hearing on 31st December 1996.

(g) The Petitioner states that the Insured thereafter lodged insurance claim against the Petitioner and the Petitioner had appointed a surveyor to assess the losses. The Petitioner, after completing their



internal formalities and upon receipt of the report from the surveyor made assessment of the losses suffered by the Insured for loss of 200 shares of Respondent No.1 alongwith loss of number of shares of other companies. The Petitioner further states that after assessing the losses, the Petitioner has intimated the Insured that they have assessed the losses for the claim lodged by the Insured at Rs.7,40,215/- and requested the Insured to execute certain additional documents uncluding a letter to Respondent No.1 and other companies to enable them to disburse the assessed losses. The Insured executed a letter dated 16th October 1997 addressed to Respondent No.1 and intimated that they are transferring all their rights, title and interest in respect of said 200 shares of Respondent No.1 in favour of the Petitioner.



- (h) The Petitioner states that the Petitioner thereafter paid a sum of Rs.7,40,215/- as claim compensation to the Insured in respect of loss of shares of 19 companies including 200 shares of Respondent No.1. The Insured accepted the said payment of Rs.7,40,215/- in full and final settlement of all their claims and executed a Subrogation Cum Special Power of Attorney dated 18th October 1997 in favour of the Petitioner and thereby transferred all their rights, title and interest in respect of shares of 19 companies covered in the claim including 200 shares of Respondent No.1. The Petitioner therefore submits that in this matter, the Petitioner has acquired all rights, title and interest in the said 200 shares of Respondent No.1 from the date of purchase and became entitled to obtain duplicate share certificates in lieu of original lost shares and to get all the benefits like dividend, bonus shares and other benefits due on the said 200 shares of Respondent No.1 from the date of purchase till the date of issuance of duplicate certificates.
- (i) The Petitioner states that Respondent No.1 had proposed split of denomination of the share certificates from Rs.10/- each to Rs.5/- each and had fixed a record date of 25th October 2001. The Petitioner further states that against 200 shares of Respondent No.1 in the name of Respondent Nos. 4 Respondent No1 has issued new certificates of

400 shares of Rs.5/- each in the name of the Respondent Nos. 4 but retained the certificates of said shares as the original shares of Respondent No.1 were covered under an injunction order. The Petitioner further states that in this matter the Petitioner's claim against 200 shares of Respondent No.1 of Rs.10/- each became 400 shares of Respondent No.1 of Rs.5/- each.

(j) The Petitioner states that in the year 2006, Respondent No.1 had proposed allotment of bonus shares in the ratio of 1:1 and after obtaining the approval of the shareholders fixed the record date 28th August 2006 for allotment of bonus shares. The Petitioner further submits that on the record date for allotment of bonus shares, the names of the Respondent Nos. 4 was shown as the holder of shares due to non-transfer of shares and Respondent No. 1 had allotted 400 bonus shares in the name of Respondent Nos. 4. In this manner Respondent No.1 has allotted total 400 shares of Rs.5/- each in the name of the Respondent Nos. 4 only on the basis of his name appearance and hence 400 shares of Rs.5/- each of Respondent No.1 now become 800 shares of Rs.5/- each of Respondent No.1.

(k) The Petitioner states that thereafter the Petitioner authorised Dear Investors' Grievance Services Limited (hereinafter referred to as "Advisor") to liaison and follow up with Respondent No.1 and Respondent No.2 and assist them in complying with their requirements of Respondent No.1 for issuance of duplicate share certificates. The Petitioner further states that the Petitioner's advisor by their letter dated 7th February 2011 apprised Respondent No.1 and Respondent No.2 with the facts of the case and requested them to provide the procedure for issuance of duplicate certificates in the name of the Petitioner in lieu of 800 shares of Rs.5/- each of Respondent No.1 for 200 original shares of Rs.10/- each.

(l) The Petitioner states that since Respondent No.2 had not provided details of transferors and bonus shares, the Petitioner prior to filing of the Petition, sent one letter dated 27th January, 2015 requesting Respondent No.1 and 2 for providing details of bonus shares and



complete address of the Transferors to enable the Petitioner to file a petition.

- (m) The Petitioner states that Respondent No.2 by an email requested the Petitioner's advisor for providing some additional information and hence the Petitioner's advisor sent a letter dated 28th January, 2015 and provided additional information as desired by the Respondent No.2.
- (n) The Petitioner states that Respondent No.1 by a letter dated 6th February, 2015 advised Deear to submit authority letter given by the Petitioner to liaison on their behalf. Accordingly Deear sent a letter dated 10th February 2015 and provided to Respondent No.1 authority letter given by the Petitioner to liaison on their behalf. However, till the date of filing of the present petition, the Petitioner has not received details of address of the transferors and bonus shares.
- (o) The Petitioner being the bonafide purchaser and owner of 200 shares of Rs.10/- each of Respondent No.1 was entitled for the allotment of 400 shares of Rs.5/- each allotted in the name of Respondent Nos. 4 on split of denomination of shares and also entitled for issuance of 400 shares of Rs.5/- each as bonus shares.
- (p) The Petitioner states that Respondent Nos. 4 who has sold their original shares of Respondent No.1 is acting as transferor of the Petitioner and have legal and moral obligation to assist the Petitioner in getting the certificates of said 800 of Respondent No.1 of Rs.5/- each transferred in their name. It is pertinent to note that since 1996 till date neither of the transferors i.e. Respondent Nos. 4 has raised any kind of objection by submitting any letter with Respondent No.1, therefore a presumption can be drawn that he has no objection in Respondent No.1 transferring the certificate of 800 shares of Rs.5/- each in the name of the Petitioner.
- (q) The petitioner states that the Petitioner is entitled for an order from the Hon'ble Board deciding that the Petitioner has acquired title over 200 originals shares of Rs.10/- each of Respondent No.1. The Petitioner is also entitled for an order from this Hon'ble Board



deciding that the Petitioner was entitled for allotment of 400 shares of Rs.5/- each of Respondent No.1 on split of denomination of shares.

- (r) The Petitioner states that the Petitioner is also entitled for an order of rectification from the Hon'ble Board directing Respondent No.1 to rectify its Register of Members by inserting the name of the Petitioner as holder of 800 shares of Rs.5/- each which became due against 200 original shares of Rs.10/- each of Respondent No.1 bearing Certificate Nos. 117545 and 121952 and Distinctive Nos. 8406799-898 and 8812997-3096 by deleting the names of Respondent No.4. The Petitioner is further entitled for a direction from the Hon'ble Board directing Respondent No.1 to issue new share certificates of 800 shares of Rs.5/- each in the name of the Petitioner by cancelling the original shares standing in the name of Respondent Nos. 4 & 5 and to pay all dividend withheld by them till date.



6. Sh. V.S. Raju, Learned counsel for the Respondents, submitted a counter dated 08.02.2016 to the CLB denying the allegations made in the Company petition against the Respondent and makes the following submissions:
- a. In the year 2001, the 1st Respondent Company has split up and subdivided the face value of the equity shares of Rs. 10/- each into two equity shares of Rs.5/- each. Later on in the year 2006, the 1st Respondent Company has declared bonus shares in the ratio of 1:1. It seems that the 3rd Respondent has purchased during the trading period 7th August, 1996 – 13th August, 1996, 200 shares (bearing share Certificate Nos. 117545 and 121952) each having 100 equity shares of the face value of Rs.10/- each and taken insurance coverage from the Petitioner for the losses including the loss of share certificates.
 - b. It was informed by the 3rd Respondent that the share certificates along with the Share Transfer Deeds duly executed by the Transferors were lost and immediately on realising, the 3rd Respondent has informed the 1st Respondent herein on 24th October, 1996, about the loss of

Share Certificates No. 117545 and 121952 each having 100 shares of face value of Rs.10/- each and requested the 1st Respondent Company to stop the transfer

- c. It is further submitted that the 1st Respondent Company by letter dated 11th November, 1996 has informed that they have noted their request and marked "stop transfer" in the records and informed as and when the 1st Respondent receive the share certificates for transfer they will be informed accordingly and also informed that the shares are in the name of Mr. Anil Sharma. The process of issue of Duplicate share certificates was also conveyed along with the relevant documents.
- d. The Learned Counsel submits that the 3rd Respondent Company informed that they have lodged the police complaint on 29th October, 1996 and the Police has issued a certificate to that extent on 6th November, 1996. The 3rd Respondent has also filed a suit No.393 of 1996 before the Hon'ble IIIrd Additional Judge, City Civil Court at Secunderabad and also filed for Injunction in IA No. 1183 of 1996 and the Hon'ble Court passed a status quo Order on 31st December, 1996. The 3rd Respondent by its letter dated 16th October, 1997 has informed the 1st Respondent Company that they have received a claim from the Petitioner stating that now all rights in the shares have to be transferred to the Petitioner.
- e. The 3rd Respondent executed a letter of subrogation and Special Power of Attorney dated 18th October, 1997 transferring all their rights in respect of impugned shares in favour of the Petitioner. The Petitioner has appointed Dear Investor Grievances Services Limited as their advisors who requested this Respondent for issuance of duplicate certificates. It is submitted that the advisor wrote a letter on 10th February, 2015 to the 1st Respondent company to provide desired information of the shareholder and details of the shares due against 200 original shares which were furnished to the advisor.



- f. The Learned Counsel further submits that the shares are still in the name of 4th Respondent in the records of the 1st Respondent Company and they are in physical form.
- g. As such, it is submitted that there are disputes between the Petitioner, 3rd Respondent and 4th Respondent in regard to the impugned shares and the 1st Respondent Company is no way concerned.
7. We have heard Sh. Kamal Agrawal, Learned Counsel for the Petitioner and Sh. VS Raju along with Sh. VB Raju, Learned Counsels for the Respondents and carefully perused the Company Petition, counter and connected case records.
8. The Learned Counsel for the Petitioner, in his written arguments dated 13th September, 2016, has relied upon few case-laws in respect of the jurisdiction and power of the Tribunal to decide the present Petition and pass an order of rectification as prayed for:
(2007) 78 SCL 124 (CLB-Chennai) Oriental Insurance Co Ltd V/s MRF – In this case, the CLB directed the Company to register the shares in the name of the Petitioner and rectify the register of members.
Similarly, the Company Petitions were allowed in CP No. 19/59/2014 (CLB-Delhi) Oriental Insurance Co Ltd V/s Nestle, CP No. 7/59/2015 (CLB-Kolkata) Oriental Insurance Co Ltd V/s CESC, Company Law Board Petition No. 37 of 2013- The Oriental Insurance Co Ltd V/s Lupin Ltd and 2000(3) Bom C R 644, Finolex Ind V/s Anil Chhabria.
9. The counsel of the R.1 submitted that there are disputes between the Petitioner, R3 and R4 in regard to the impugned shares. However, as discussed above there is no dispute between the petitioner and R.3 since R3 has given all its rights in favour of the petitioner towards the shares in question. Further, there are no records to substantiate the



claims of the R.1 counsel. Therefore, the above submission of the R.1 counsel is without any merit.

10. We have considered all the records pertaining to the case and the submissions of both the parties. R.3, a member of NSE, has confirmed receipt of Rs.7,40,215/- towards insurance claims settled by the Petitioner Company. Upon receipt of the claimed money, R.3 executed Subrogation cum Special Power of Attorney dated 18.10.1997 addressed to R.1 company intimating that it is transferring all its Rights, Titles and Interest in respect of the said 200 shares of R.1 Company in favour of the Petitioner. R.3 has accepted the aforesaid amount as full and final settlement of its claim in respect of Shares of 19 companies covered in the insurance claim including 200 shares of R.1 Company. Therefore, the Petitioner rightly claims that it has acquired all rights, titles and interest in the said 200 shares of R1 company and became entitled to obtain the share certificates in lieu of original lost shares and the petitioner is entitled to all the corporate benefits like dividends, bonus shares and other benefits on the 200 shares of R1 Company from the date of purchase till the date of issuance of duplicate shares. The aforesaid 200 shares became 400 shares in view of split in face value of shares in October, 2001. Subsequently, R1 Company issued Bonus shares in the ratio of 1:1 in the year 2006. It is also further observed that the 200 shares in question are still in the name of R.4 and not transferred to anyone.



11. In view of the above facts, the C.P. No.15/111/CB/2015 is allowed with the following directions:
- The petitioner is entitled for 800 shares of R1 Company due against 200 original shares of R.10/- each of R.1, bearing Certificate Nos. 117545 and 121952 and Distinctive Nos. 8406799-898 and 8812997 – 3096 and are also entitled for all dividends declared subsequently.
 - R1 Company is also directed to rectify the Register of members and insert the name of the petitioner as holder of the said 800 shares and

issue new share certificates in the name of the petitioner within 10 days from the date of receipt of copy of the order.

With the above direction the petition is disposed of. No orders as to costs.

Sd/-

RAVIKUMAR DURAISAMY
MEMBER (T)

Sd/-

RAJESWARA RAO VITTANALA
MEMBER (J)



V. Annapoorna
V. ANNA POORNA
Asst. DIRECTOR
NCLT, HYDERABAD - 68