

2022 C L D 718

[Lahore (Rawalpindi Bench)]

Before Jawad Hassan, J

Lt. Gen. (Retd.) MAHMUD AHMAD AKHTAR and another---Petitioners

Versus

Messrs ALLIED DEVELOPERS (PVT.) LTD. through Chief Executive and 3 others---Respondents

Civil Original No. 14 of 2009, heard on 25th January, 2022.

(a) Companies Ordinance (XLVII of 1984) [since repealed]---

---Ss. 152 & 76--- Power of Court to rectify register---Transfer of shares and debentures--- Scope--- Petitioners invoked original jurisdiction of the High Court under S. 152 of the Companies Ordinance, 1984 for rectification of register of shareholders---Contention of petitioners was that their father at the time of his death was holding 1400 shares of the respondent company but when they approached Securities and Exchange Commission of Pakistan (SECP) for transfer of shares they fell in knowledge about illegal transfer of 1400 shares---Validity---Perusal of report filed by the SECP and the contents made by the petitioners clarified that the shares of the deceased were illegally and fraudulently transferred---Record was silent about the mode of transfer or instrument through which 1400 shares were transferred in accordance with S. 76 of the Companies Ordinance, 1984 requiring a duly stamped transfer deed executed by the deceased along with the original share stamps---No transfer deed or any original script of copies thereof was filed with the petition at any later stage---Requirement of S. 76 of the Companies Ordinance, 1984 was not complied with, which was mandatory in nature and in absence of such compliance no transfer of shares was effective---Petition was allowed.

(b) Companies Ordinance (XLVII of 1984) [since repealed]---

---Ss. 152 & 7---Power of Court to rectify register---Jurisdiction of the Court---Scope--- Literal study of S. 152 read with S. 7 of the Companies Ordinance, 1984 provides a right of an aggrieved person to make an application before the High Court for the purposes of rectification of register of members or register of debenture holders of a company in a case where name of a person is fraudulently or without sufficient cause was entered in or omitted from said registers---On such application, the High Court is also empowered to decide any question relating to the title of any person who is party to the application and generally may decide any question which is necessary or expedient to decide for rectification of the registers---Accordingly, the High Court has power to either refuse the application or order rectification of registers on payment of any damages to be paid by the company to the aggrieved person and make order as to the costs in its discretion.

(c) Companies Ordinance (XLVII of 1984) [since repealed]---

---Ss. 152 & 9---Power of Court to rectify register---Procedure of the Court---Scope--- Application shall be preferred before the High Court by the aggrieved person or any member of the Company for "rectification" of the register---Though S. 152 of the Ordinance gives wide power to the High Court to rectify the register of members, yet the jurisdiction of the High Court is summary in nature, as emerges in S. 9(3) of the Ordinance.

Mian Javed Amir and others v. United Foam Industries (Pvt.) Ltd., Lahore and others 2016 CLD 393; Messrs Ammonia Supplies Corporation Private Ltd. v. Messrs Modern Plastic Containers (Pvt.) Ltd. AIR 1994 Delhi 51 and Messrs Ammonia Supplies Corporation Ltd. v. Messrs Modern Plastic Containers Ltd. AIR 1998 SC 3153 rel.

(d) Companies Ordinance (XLVII of 1984) [since repealed]---

---S. 152---Power of Court to rectify register--- Scope---By virtue of S. 152 of the Ordinance, the Court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or debenture-holders or alleged members or debenture-holders, or between members or alleged members, or debenture-holders or alleged debenture-holders, on the one hand and the company on the other hand; and generally may decide any question which it is necessary or expedient to decide for rectification of the register---Since S. 152 of the Ordinance has provided a special remedy to resolve disputes erupting between the Company and the members under the Ordinance, the High Court being the court of "original jurisdiction" under the Ordinance is empowered to entertain the application for correction/rectification of the register of members.

Mehran Ginning Industries and 2 others v. Sajid Shafique and 12 others 217 CLD 1165; Mian Javed Amir and others v. United Foam Industries (Pvt.) Ltd., Lahore and others 2016 CLD 393; Messrs Ammonia Supplies Corporation Private Ltd. v. Messrs Modern Plastic Containers (Pvt.) Ltd. AIR 1994 Delhi 51 and Messrs Ammonia Supplies Corporation Ltd. v. Messrs Modern Plastic Containers Ltd. AIR 1998 SC 3153 rel.

(e) Companies Ordinance (XLVII of 1984) [since repealed]---

---S. 152---Power of Court to rectify register---Scope---Section 152 of the Ordinance empowers the Court to decide any question relating to "rectification" of the Register--- Any question raised within the peripheral field of rectification, it is the High Court under S. 152 alone which has the exclusive jurisdiction---Plain reading of the word "rectification" itself connotes some error, which has crept in requiring correction---Error would only mean everything as required under the law has been done yet by some mistake the name is either omitted or wrongly recorded in register of the Company.

Lahore Race Club v. Raja Khushbakht-ur-Rehman PLD 2008 SC 707 ref.

(f) Companies Ordinance (XLVII of 1984) [since repealed]---

---S. 152---Power of Court to rectify register---Scope---If the name of any person is fraudulently or without "sufficient cause" entered in or omitted from the Register of Members, the aggrieved person can apply to the Court for rectification of Register and the Court after enquiring into the matter may order rectification of Register if it is satisfied that the aggrieved person is entitled to such relief.

Muhammad Hussain v. Dawood Flour Mill 2003 CLD 1429 fol.

M. Imam-ud-Din Janjua v. The Thal Development Authority PLD 1972 SC 123 rel.

(g) Companies Act (XIX of 2017)---

---Preamble & S. 6---Procedure of the Court and appeal---Scope---Preamble of the Companies Act, 2017 protects the interests of shareholders, creditors, other stakeholders and general public and provides an alternate mechanism for expeditious resolution of

corporate disputes---However, S. 6(11) of the Act clearly states that the company matters have to be decided within a period of 120 days and the Court concerned shall fix the date and S. 6(7) of the Act speaks about allocation of time for hearing the case.

(h) Companies Ordinance (XLVII of 1984) [since repealed]---

---S. 7---Jurisdiction of the Court---Scope---Jurisdiction exercised by the High Court under the Ordinance is original jurisdiction, in the sense that the petitions or applications under the various provisions of the Ordinance are entertain-able by the High Court as the Court of first instance.

Mehran Ginning Industries and 2 others v. Sajid Shafique and 12 others 217 CLD 1165 fol.

Malik Qamar Afzal, Advocate Supreme Court with Malik Shehryar Afzal, Raja Asjad Iqbal Satti and Malik Sabir Hussain for Petitioners.

Malik Ahtesham Saleem, Assistant Attorney General.

Respondents Nos.1 to 3 Ex parte.

Adeel Peter for Respondent No. 4.

Date of hearing: 25th January, 2022.

JUDGMENT

"The delay of justice is a denial of justice. Magna Carta will have none of it. "... To no one will we deny or delay right or justice" (Magna Carta: Ch. 40). All through the years men have protested at the law's delay and counted it as a grievous wrong, hard to bear. Shakespeare ranks it among the whips and scorns of time (Hamlet, Act 3, Sc. 1). Dickens tells how it exhausts finances, patience, courage, hope (Bleak House, c.1). To put right this wrong, we will in this court do all in our power to enforce expedition".

Lord Denning in Allen v. Sir Alfred McAlpine & Sons Ltd. [1968] 1 All E.R. 543 (C.A.) at p. 547

JAWAD HASSAN, J.---This judgment will decide thirteen (13) years old controversy between the parties and their alleged dispute of rectification of register of Allied Developers (Private) Limited (the "Respondent Company"), pending from the year 2009. Succinctly, the Petitioners seek the original jurisdiction of this Court being a Company Judge under section 152 of the Companies Ordinance, 1984 (the "Ordinance") for the rectification of register of shareholders of the Respondent Company in connection thereto transfer of 1400 shares in their names.

A. CONTEXT

2. The Petitioners being parents of Late Dr. Khalid Mahmud Akhtar (the "deceased") brought the matter before this Court under the Company Jurisdiction for rectification of register which had to be decided in a summary manner pending since 24.11.2009. The Court on the first date of hearing noted that the Petitioners being the legal heirs of the deceased are entitled to have 1400 shares transmitted in their favour. The Court in order to protect rights of the Petitioners granted status-quo by observing that he shares of the deceased shall not be transferred to any third party. The case in hand was adjourned from time to time, the Respondents appeared before the Court however, they were proceeded ex parte. Before passing this judgment, the Court on 20.01.2022 recalled ex parte order to

give them a chance to appear and argue the case. It is to be noted that company matters have to be decided expeditiously under the Ordinance now the Companies Act, 2017 (the "Act") under which the matter was brought before this Court. The Preamble of the Act protects the interests of shareholders, creditors, other stakeholders and general public and provides an alternate mechanism for expeditious resolution of corporate disputes. However, section 6(11) of the Act clearly states that the company matters have to be decided within a period of 120 days and the Court concerned shall fix the date and section 6(7) of the Act speaks about allocation of time for hearing the case and this Court on 20.01.2022 allocated the time for hearing and fixed the date, in order to decide thirteen years old matter.

B. FACTUAL BACKGROUND

3. It all started in year 1993 when the deceased became Chief Executive and majority shareholder of the Respondent Company. Initially, the Respondent Company was engaged in development of real estate business and subsequently it went on to launch real estate development projects and for this purpose, the deceased joined hands with Dr. Shafiq-ur-Rehman/Respondent No.2 and Dr. Waqar Aftab, as Co-Directors with 35% shareholding in the name of deceased while 32.5% shareholding between the Respondent No.2 and Dr. Waqar Aftab. Due to multifarious litigation with regard to area namely "Saleem Hayat Land" situated at Mauza Kotha Kalan, Rawalpindi and to resolve the said issue, an agreement was signed between the parties to the effect that the deceased resigned as Chief Executive and paid Rs.90,000,000/- to the Respondent No.2 and Rs.70,00,000/- to Dr. Waqar Aftab. Thereafter, the deceased was brutally murdered on 21.07.2007 and that time he was holding 1400 shares of the Respondent Company. As per version of the Petitioners, they approached the SECP for transfer of shares where they fell in knowledge about illegal transfer of 1400 shares in favour of the Respondent No.3. Hence this petition.

C. ARGUMENTS OF THE PETITIONERS

4. Malik Qamar Afzal, ASC inter alia contended that the deceased was the Chief Executive and shareholder of the Respondent Company who breathed his last on 21.07.2007 and at that time, he was holding 1400 shares; that the Petitioners, being legal heirs, are entitled to receive aforesaid shares which the Respondents have illegally transferred in the name of the Respondent No.3 as is evident from annual return filed by the Respondent No.2 for the year 2007-08; that the said transfer of shares is violation of section 76 of the Ordinance; that name of the deceased was shown as member/shareholder in the year 2006 holding 1400 shares, however, unauthorized transfer of shares has been brought by the Respondents for the following years.

D. ARGUMENTS OF THE RESPONDENTS-SECP

5. Mr. Adeel Peter, learned counsel for SECP submitted report and parwise comments and submitted that as per Form-A submitted by the Respondents for the year 2006, 1400 shares remained intact in favour of the deceased but as per Form-A made up to 31.10.2007 filed on 25.03.2009, the name of deceased was replaced with Rabia Shafiq in list of shareholdings. He further stated that till 31.10.2007 neither any transfer of share was reported by the deceased nor any transfer deed has been filed in this regard.

6. I have respectively taken into consideration arguments advanced by learned counsel for the parties and perused the record.

E. DETERMINATION OF THE COURT

7. It is noted that the Respondents Nos.1 to 3 were proceeded ex parte in terms of order dated 21.10.2019 and the said Respondents filed C.M. No. 03 of 2021 for recalling of ex parte order. However, the Court, without touching the merits, allowed that application in order to avoid further delay in the matter vide order dated 20.01.2022 but even then, the Respondents Nos.1 to 3 have not turned up therefore, they are proceeded ex parte.

8. In view of the arguments of the parties, the question that boils down for determination before this Court is that:

"Whether the Petitioners should have approached the Civil Court or they have rightly resorted to the jurisdiction of the High Court under section 152 of the Ordinance for rectification of register of the Respondent Company"?

9. Before deciding this point of determination, it is expedient here to reproduce sections 7 and 152 of the Ordinance for ready reference:-

"7. Jurisdiction of the Court.---(1) The Court having jurisdiction under this Ordinance shall be the High Court having jurisdiction in the place at which the registered office of the company is situate:

Provided that the Federal Government may, by notification in the official Gazette and subject to such restrictions and conditions as it thinks fit, empower any civil Court to exercise all or any of the jurisdiction by this Ordinance conferred upon the Court, and in that case such Court shall, as regards the jurisdiction so conferred, be the Court in respect of companies having their registered office within the territorial jurisdiction of such Court.

(2) For the purposes of jurisdiction to wind up companies, the expression "registered office" means the place which has longest been the registered office of the company during the six months immediately preceding the presentation of the petition for winding up.

(3) Nothing in this section shall invalidate a proceeding by reason of its being taken in a Court other than the High Court or a Court empowered under subsection (1)."

"152. Power of Court to rectify register. -

(1) If -

(a) the name of any person is fraudulently or without sufficient cause entered in or omitted from the register of members or register of debenture-holders of a company; or

(b) default is made or unnecessary delay takes place in entering on the register of members or register of debenture-holders the fact of the person having become or ceased to be a member or debenture holder;

the person aggrieved, or any member of debenture-holder of the company, or the company, may apply to the Court for rectification of the register.

(2) The Court may either refuse the application or may order rectification of the register on payment by the company of any damages sustained by any party aggrieved, and may make such order as to costs as it in its discretion thinks fit.

(3) On any application under subsection (1) the Court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or debenture-holders or alleged members or debenture-holders, or between members or alleged members, or debenture-holders or alleged debenture-holders, on the one hand and the company on the other hand; and generally may decide any question which it is necessary or expedient to decide for rectification of the register."

F. PATHOLOGY OF SECTION 152

10. Literal study of section 152 read with section 7 of the Ordinance provides a right of an aggrieved person to make an application before the High Court for the purposes of rectification of register of members or register of debenture holders of a company in a case where name of a person is fraudulently or without sufficient cause was entered in or omitted from said registers. On such application, the High Court is also empowered to decide any question relating to the title of any person who is party to the application to have his name entered in or omitted from the registers and generally may decide any question which is necessary or expedient to decide for rectification of the registers. Accordingly, the High Court has power to either refuse the application or order rectification of registers on payment of any damages to be paid by the company to the aggrieved person and may make order as to the costs in its discretion.

11. On the other hand, section 9 of the Ordinance has provided procedure to dispose of all matter agitated before the High Court. So far as taking the cognizance of the matter is concerned, it is provided in the Ordinance that an application shall be preferred before the High Court by the aggrieved person or any member of the Company for "rectification" of the register. Though section 152 of the Ordinance gives wide power to the High Court to rectify the register of members, yet the jurisdiction of the High Court is summary in nature, as emerges in section 9(3) of the Ordinance, which reads as under:

"In the exercise of its jurisdiction as aforesaid, the Court shall, in all matters before it, follow the summary procedure."

12. A careful examination of section 9 of the Ordinance would show that the intention of the legislature is to introduce new provision in the Ordinance to provide a very expeditious and summary procedure. By virtue of section 152 of the Ordinance, the Court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or debenture-holders or alleged members or debenture-holders, or between members or alleged members, or debenture-holders or alleged debenture-holders, on the one hand and the company on the other hand; and generally may decide any question which it is necessary or expedient to decide for rectification of the register. Since section 152 of the Ordinance has provided a special remedy to resolve disputes erupting between the Company and the members under the said Ordinance, the High Court being the court of "original jurisdiction" under the Ordinance is empowered to entertain the application for correction/rectification of the register of members.

G. JURISPRUDENCE DEVELOPED UNDER SECTION 152

13. It has been held by the Division Bench of this Court in the case of "Mehran Ginning Industries and 2 others v. Sajid Shafique and 12 others" (2017 CLD 1165 Lahore) that jurisdiction exercised by the High Court under the Ordinance is original

jurisdiction, in the sense that the petitions or applications under the various provisions of the Ordinance were entertainable by the High Court as the Court of first instance. Similarly, the honorable Supreme Court has clarified this question in the case of "Mian Javed Amir and others v. United Foam Industries (Pvt.) Ltd., Lahore and others" (2016 CLD 393 Supreme Court) and has held as follows:

"17. Since the Ordinance was promulgated with an intent to amend the law relating to companies and certain other associations for the purpose of healthy growth of the corporate enterprises, protection of investors and creditors, promotion of investment and development of economy and matters arising out of or connected therewith, therefore, all matters relating to companies irrespective of the fact whether factual controversy involved or not are required to be tried by a Court having jurisdiction is under the Ordinance of 1984. Mere insertion of the term "summary procedure" does not debar the Company Judge from receiving evidence in cases where factual controversy is involved. The Court having jurisdiction under this Ordinance can receive evidence in cases it thinks appropriate in the circumstances of the case.

19. In order to carry out the purposes of the above Section and the Ordinance itself and to determine the factual controversy between the parties, a Court having jurisdiction under the Ordinance has ample power to record evidence in cases it deems fit. The object of section 152 of the Ordinance, which relates to factual controversy, cannot be achieved without entering into in-depth investigation and recording of evidence. Therefore, we hold that there is no legal bar for a Company Court to enter into factual inquiry, framing of issues for determination and recording of oral as well as documentary evidence in coming to the just conclusion of the case.

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21. The dictionary meaning of the term "Summary Proceedings" referred to in section 9 of the Ordinance of 1984, is "to be disposed promptly in simple manner out of regular course of the common law". This term by itself does not impose any restriction on the forum from recording evidence to reach a final conclusion. Section 9 of the Ordinance of 1984 does not exclude the jurisdiction of the Court to decide the controversial facts.

22. We, for the aforesaid reasons, are of the considered view that a Court having jurisdiction under the Ordinance of 1984 can record oral as well as documentary evidence in any dispute brought before it for adjudication and the learned Division Bench of the High Court fell in error in holding that the Civil Court would be the appropriate forum for resolving the controversy between the parties."

14. The question of jurisdiction of rectification of name in the Register of Members has also been dealt with by a Full Bench of Delhi High Court in the case of "Messrs Ammonia Supplies Corporation Private Ltd. v. Messrs Modern Plastic Containers (Pvt.) Ltd. (AIR 1994 Delhi 51) wherein it was observed that the jurisdiction of the Court is discretionary and summary in nature. The Delhi High Court in that case took into consideration different views rendered by the Indian High Courts. The judgment of the Delhi High Court was challenged before the Supreme Court of India in the case of "Messrs Ammonia Supplies Corporation Ltd. v. Messrs Modern Plastic Containers Ltd." (AIR 1998 SC 3153) and the Court keeping in view its powers to rectify Register of Member of the Company under section 38 of the Indian Companies Act, 1913, observed

that "rectification of Register of Member, jurisdiction of the Company Court is summary in nature and Civil Court's jurisdiction is impliedly barred."

15. In view of above, it is unequivocal that Section 38 of the Indian Companies Act, 1913 dealing with powers of the Court to rectify the Register corresponds with section 152 of the Ordinance. To elaborate further, this Section empowers the Court to decide any question relating to "rectification" of the Register including the law. There can be no doubt that any question raised within the peripheral field of rectification, it is the High Court under section 152 alone which has the exclusive jurisdiction. A plain reading of the word "rectification" itself connotes some error, which has crept in requiring correction. Error would only mean everything as required under the law has been done yet by some mistake the name is either omitted or wrongly recorded in register of the Company. Reference may be made to "Lahore Race Club v. Raja Khushbakht-ur-Rehman" (PLD 2008 Supreme Court 707).

16. The Honorable Supreme Court in "M. Imam-ud-Din Janjua v. The Thal Development Authority" (PLD 1972 Supreme Court 123) candidly observed that "it can be seen that an aggrieved person may apply to the Court for the rectification of the Register of Members if the conditions mentioned in section 152 are fulfilled." Therefore, the Petitioner must satisfy the Court with following two pre-requisites before claiming relief under the said provision:-

- i. The name of any person is fraudulently or without sufficient cause entered in or omitted from the register of members or register of debenture-holders of a Company.
- ii. The default is made or unnecessary delay takes place in entering on the register of members or registers of debenture-holders the fact of the person having become or ceased to be a member or debenture holder.

17. In "Muhammad Hussain v. Dawood Flour Mill" (2003 CLD 1429) a Division Bench of the High Court of Sindh observed that if the name of any person is fraudulently or without "sufficient cause" entered in or omitted from the Register of Members, the aggrieved person can apply to the Court for rectification of Register and the Court after enquiring into the matter may order rectification of Register if it is satisfied that the aggrieved person is entitled to such relief.

H. CONCLUSION

17. In view of language used under section 152 of the Ordinance and jurisprudence developed thereto, the Court is empowered to order for rectification of register and may make such orders as its discretion thinks fit. From the perusal of report filed by the SECP and the contents made by the Petitioners makes it clear that the shares of the deceased have illegal and fraudulently been transferred in favour of the Respondent No.3 because the whole case of the Petitioners is that the deceased, at the time of his death, was holder of 1400 shares in the Respondent Company which they have illegally and fraudulently transferred in favour of the Respondent No.3 and thus the Petitioners are entitled to receive the same being his legal heirs. It transpired from the record that the Respondent Company was incorporated on 29.11.1988 with an authorized capital at the time of its incorporation was Rs.4,000,000/- divided into 40,000 shares of Rs.100/- each. As per Memorandum of Association, the Respondent Company was engaged in development of real estate business which and afterwards went on to launch real estate development

projects. It was notified by the Respondent Company to SECP regarding particulars of management, shares and shareholding position which reads as follows:-

Sr.#	Name of Director	Number of Shares
1.	Syed Zil Ali Shah Naqvi	1000
2.	Syed Mahmood Hussain Gardezi	1000
3.	Mohammad Ali Shah	1000
4.	Tariq Rasheed	1000
Total		4000

18. As per Form-29 dated 19.03.1991, the deceased was co-opted as Director on 12.03.1991 in place of Syed Mahmood Hussain Gardezi. As per Form-A made upto 31.12.1991, the said person transferred his 800 shares to the deceased while remaining 200 shares were transferred to Syed Zil Ali Shah Naqvi. As per Form-29 dated 19.04.1992, a change in management was notified by notifying resignations of Syed Zil Ali Shah Naqvi, Mohammad Ali Shah and Mr. Tariq Rasheed on 07.04.1992 and appointment of Mr. Shafiq ur Rehman and Dr. Waqar A Malik as Directors of the Company while the deceased was also appointed and notified as Chief Executive on the aforesaid date. In year 1993, Form-A filed by the Respondent Company up to 31.12.1991 reflected transfer of shares by Syed Zil Ali Shah and shareholding position of the deceased holding 1400 becomes as under:

Sr.#	Name of Transferor	Name of Transferee	Name of Shares Transferred	Date of Transfer
1	Syed Zil Ali Shah	Dr. Waqar A. Malik	300	07.04.1992
2	Syed Zil Ali Shah	Shafiq ur Rehman	300	07.04.1992
3	Syed Zil Ali Shah	Dr. Khalid Mahmood (deceased)	600	07.04.1992
4	Syed Zil Ali Shah	Shafiq ur Rehman	1000	07.04.1992
5	Tariq Rasheed	Dr. Waqar A. Malik	1000	07.04.1992

19. As per Form-A made upto 30.12.1993, the Respondent Company notified the following shareholders with their shareholding position which is as under:

Sr.#	Name of Director	Number of Shares
1.	Mr. Khalid Mehmood Akhtar (deceased)	1400
2.	Mr. Shafiq ur Rehman	1300
3.	Mr. Waqar A Malik	1300
Total		4000

20. As to the facts of this Petition it may be noted that it is not in dispute that pursuant to Form-A i.e. the Annual Return of the Company filed with SECP in terms of Section 156 ibid on 31.10.2007, the deceased had 1400 shares in his name, whereas, his shareholding till that date was not in dispute as is evident from the report and parawise comments submitted by the SECP.

21. It is agitated by the Petitioners that the Respondents Nos.1 to 3 have transferred 1400 shares without complying with requirement of section 76 of the Ordinance. It is evident that 1400 shares vested in the name of the deceased, as evident from Form-A filed by the Company up to 31.10.2007. Further, the deceased, during his life time, has neither transferred 1400 shares to any person nor share transfer deeds, in this respect, were filed

by the Respondents Nos.1 to 3 before the SECP in violation of the requirement of section 76 of the Ordinance. Therefore, the deceased's title with regard to 1400 shares is quite clear and well established from the report of SECP. Moreover, the record is silent about the mode of transfer or instrument through which 1400 shares were transferred in accordance with Section 76 of the Ordinance requiring a duly stamped transfer deed executed by the deceased along with the original share stamps. No such transfer deed or any original script or copies thereof have been filed with this petition at any later stage. It is clear and obvious that requirement of section 76 of the Ordinance has not been complied with, which is mandatory in nature and in absence of such compliance no transfer of shares in law stand effected.

22. In view of facts and circumstances of this case, the Petition is hereby allowed. The Register of the Respondent Company stands rectified by cancellation of Form-A for the year of 2007 accepted by SECP on 25.03.2009 to the extent of showing transfer of deceased's shares in the name of Respondent No.3. SECP to act accordingly and correct its record by restoring to the shareholding of the deceased under the applicable laws.

SA/M-43/L

Petition allowed.