IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPEAL NO.11 OF 2015
IN
COMPANY PETITION NO. 78 OF 2012
WITH
COMPANY APPLICATION NO. 3 OF 2015
WITH
NOTICE OF MOTION NO. 33 OF 2013
IN
SUIT NO. 17 OF 2013

Ranjan Chandrakant Javeri …Appellant / Orig.Petitioner
vs.
Khetani Textile Industries Pvt.Ltd. & Ors. ....Respondents

Mr.D.H. Mehta with Mr.Dhaval Mehta, Arshil Shah and Ms.Rima Paradkar I/b. D.M. Legal Associates for Appellant in Coapp 11/2015.
Mr.Raju Shah with Akshay Naik I/b. Mansukhlal Hiralal & Co. for Plaintiff In Suit No.17/2013 and for Respondent Nos.4,5 and 7 in Coapp 11/2015.
Mr.Ashish Kamat with Ms.Rashmi Doshi, Priya Thakur I/b. Malvi Ranchoddas & Co. for Respondent Nos.1 and 2 in Coapp No.11/2015 / Defendant Nos.2, 4 and 5 in suit.
Ms.Pratibha Rupnawar I/b. J Law Associates for Respondent No.3 in Coapp 11/2015.

CORAM : S.C. GUPTE, J.

RESERVED ON : 9 FEBRUARY 2016

PRONOUNCED ON : 13 OCTOBER 2016

ORDER :

This appeal under Section 10F of the Companies Act, 1956 ("Act") challenges an order dated 12 December 2014 ("impugned order") passed by the Company Law Board, Mumbai Bench ("CLB"). By the impugned order, the CLB dismissed the Appellant's petition under Sections 397 and 398 of the Act challenging *inter alia* the sale of shares of

Respondent No.1 company. The companion Notice of Motion is an application for interim reliefs in a suit filed by some of the contesting Respondents, who are purchasers of these shares, for specific performance of the agreement to sell shares.

2 The short facts of the case may be stated thus :

(i) Respondent No.1 is a Company incorporated on 3 July 1944. It is a family run private company limited by shares. The only asset of Respondent No.1 as of the date of the petition was the land and factory building at Kurla in Mumbai Suburban District.

(ii) The shareholdings of individual shareholders (as on 12 December 2009) were as follows :

Sr. No.	**Shareholder**	**No. of Shares**	**Percentage of share holding**
1	Alka Sameer Javeri	2001	2.0%
2	Sangeeta Sagar Javeri	2001	2.0%
3	Kamla Girdharlal Javeri	28858	28.86%
4	Ranjan C. Javeri	10777	10.78%
5	Sagar G. Javeri	26801	26.8%
6	Sameer G. Javeri	24051	24.05%
7	Dilipkumar Khetani	50	0.05%
8	Anant D. Khetani	10	0.01%
9	Amritlal N. Khetani	1475	1.47%
10	Nagji K. Khetani	3976	3.98%
	Total	**1,00,000**	**100%**

(iii) Respondent No.2 and one Sameer Javeri (the late husband of

Respondent No.3) were at the relevant time, i.e. till May 2009, looking after the affairs of Respondent No.1. After the death of Sameer in May 2009, Respondent No.3 (his widow) was inducted as a non-executive director of Respondent No.1. It is the Appellant's case that since the death of Sameer, Respondent No.2 was solely in control of the affairs and management of Respondent No.1.

(iv) The Appellant claims that in or about June-July 2010, Respondent No.2 came up with a proposal to sell Respondent No.1 company. He represented to the Appellant that the decision to sell was considered and agreed to by all concerned. The Appellant *"believed the representations of Respondent No.2 and under the circumstances had no choice but to go with the flow"*.

(v) Soon thereafter, Respondent No.2 handed over a cheque of Rs.24,01,942/- to the Appellant towards the sale of her shares. (There is a controversy between the parties as to what the cheque amount represented. Whereas it is the case of the Appellant that the amount represented earnest/advance, the contesting Respondents claim this to be the full consideration coming to the share of the Appellant for her 2039 shares tendered by her for transfer at a previously agreed rate of Rs.1,178/- per share). The Appellant accepted and encashed this cheque.

(vi) It is the Appellant's case that relying on the fact that Respondent No.1 was a close relative and held a fiduciary duty concerning the proposed sale and his representation that the sale was being concluded, the Appellant stood by for a long time without any protest. In or about May-June 2012, the Appellant learnt about the accomplishment of the sale of Respondent No.1 and found a third party to be in possession of the property.

(vii) In or about October 2012, doubting the *bona fides* of Respondent No.2 and apprehending surreptitious nature of the transaction, the Appellant filed the present company petition (Company Petition No.78 of 2012) *inter alia* challenging the purported sale and claiming restoration of Respondent No.1 company. The petition was originally filed against Respondent Nos.1 to 3. On 9 November 2012, Respondent Nos.4 to 7 filed an application for intervention in the petition as the purchasers of the shares of Respondent No.1 company.

(viii) On 12 December 2012, Respondent Nos.4 to 7 herein filed a suit for specific performance of the agreement for sale of Respondent No.1 company (Suit No.17 of 2013) and applied for interim reliefs in the suit (Notice of Motion No.33 of 2013).

(ix) The Appellant thereafter filed an application for joinder of Respondent Nos.4 to 7 as party respondents to the petition (Company Application No.245 of 2012). The CLB was pleased to allow that application and implead Respondent Nos.4 to 7.

(x) Sometime in or about September 2013, the Appellant claimed to have taken search of the records of Registrar of Companies, whereupon she found that Respondent Nos.9 and 10 had been appointed as additional directors of Respondent No.1. The Appellant, thereafter, challenged the appointment of Respondent Nos.9 and 10 by filing a company application *inter alia* by impleading them in the pending petition (Company Application No.255 of 2013).

(xi) The company petition was heard by the CLB and disposed of by the impugned order. The CLB held that the Appellant had failed to make out any case of oppression and mismanagement and the petition was devoid of merits.

(xii) The present appeal impugns this final order. The appeal is heard along with the Notice of Motion taken out by Respondent Nos.4 to 7 in their own specific performance suit, which is specially assigned to this court for being heard along with the company appeal.

3. The Appellants' grievances in the petition urged before the CLB may be briefly summarized as follows :

(a) The Appellant never desired to sell her shares (a total of 10777 shares) at the rate of Rs.1178 per share;

(b) The amount of Rs.1178 per share is a gross undervaluation of the company (the only property of the company being the land and structures), going by the ready reckoner rate of immovable properties in the locality;

(c) The undervaluation was for the sole benefit of Respondent No.2, who alone handled the transaction, and with a view to deprive the Appellant of the fair value of her shares;

(d) The Appellant was, in any event, paid for her 2039 shares and the balance 8738 shares were expropriated collusively and illegally in favour of Ms.Meena Khetani and Ms.Bindu Khetani; and

(e) The appointment of Mr.Anant Khetani as director of Respondent No.1 company as well as the purported execution of power of attorney in favour of Respondent No.7 by Respondent No.1 through Respondent No.2 and Anant Khetani was illegal and ineffective, thereby also invalidating the appointment of Respondent Nos.9 and 10 as additional directors of the company.

4 The broad conclusions of the CLB on the Appellant's grievances in the petition may be summarized as follows :

(a) Keeping in view the fact that the Appellant accepted and retained the amount of Rs.24,01,942/- (which corresponded to Rs.1,178/- per share) and signed share transfer forms for 10 shares for Rs.11780/-, the CLB was inclined to accept the Respondents' contention that she, being a party to the transaction, was estopped from contending that she never desired to sell her shares at Rs.1,178/- per equity share;

(b) The Appellant having had the benefit of the amount for all these years and having stood by it without refunding or offering to refund the same and in fact, having suppressed her having executed share transfer forms for 10 shares at Rs.1178 per share, has not approached the CLB with clean hands;

(c) Though the particular valuation of the shares (i.e. at Rs.1178 per share), was lower compared to the ready reckoner value of the property, the reasons attributed in support of such valuation by the Respondents were sound and convincing, and there was no force in the Appellant's case that Respondent No.2 agreed to sell the property at a gross undervaluation for his sole benefit and with a view to deprive the Appellant of the right value of her shares;

(d) There was no substance in the Appellant's contention that she was discriminated against, since, though others were paid in full for their shares, the Appellant was not paid full consideration for her shares and in fact, her 8738 shares were expropriated;

(e) There was adequate explanation for initial payment and later reversal of the amounts paid to Ms.Meena Khetani and Ms.Bindu Khetani, since the gift in their favour (as per the alleged family arrangement) could not take place owing to the pre-emption clause in the Articles of Association of the company;

(f) The power of attorney executed by Respondent No.1 company in favour of Respondent No.7 was legal and valid;

(g) The appointment of Respondent Nos.9 and 10 on the Board of Respondent No.1 cannot be held as illegal or invalid; and

(h) The petition appeared to have been filed by the Appellant for an ulterior motive and mala fide objective of exerting pressure on Respondent Nos.4 to 8 in connivance with Respondent No.3, which is a collateral purpose for which it is impermissible to maintain a petition under Sections 397 and 398.

5 The two acts of oppression and mismanagement complained of in this petition and urged at the hearing of the appeal are: (a) illegal and

mala fide sale at an undervaluation of 2039 shares, and expropriation of 8738 shares, held by the Appellant in Respondent No. 1 company, and (b) illegal appointment of Respondent Nos. 9 and 10 as additional directors of Respondent No. 1. We shall presently consider each of these two aspects and investigate whether the order of CLB is vitiated by any error of law in connection therewith.

6 The matter of sale of 2039 shares of the Appellant, in turn, involves 3 questions: (1) whether the shares were sold without the Appellant's consent and volition? (2) Whether the sale was at an undervaluation and if so, was there any justification for the sale value? and (3) Whether there were any mala fides on the part of Respondent No. 2 who handled the transaction of sale? In the first place, we must note that all these questions are pure questions of fact and the focus of our inquiry must be to find out if the conclusions of the CLB in connection therewith are impossible or perverse, for if not that, no question of law can be said to arise in relation to the conclusions.

7 The record of the case clearly bears out that the Appellant did not at any time object to the sale of the Company, which was in any event not doing any business and the only property of which was the subject immovable property. The sale was evidently to be accomplished by transfer of shares of the Company. It is also an admitted position that the Appellant left it to Respondent No. 2 to negotiate the sale. It is her express case that she relied on the factum of her close relationship with Respondent No. 2 and the latter's fiduciary capacity with respect to the sale transaction. The third important fact is that the Appellant did execute share transfer forms for transfer of 10 shares at a consideration of Rs.1178 per equity share. She has

not denied her signature on the transfer forms. Fourthly, she did receive a sum of Rs.24,01,942 from Respondent Nos. 4 to 8 without any protest. This amount represents the consideration for 2039 shares at the rate of Rs.1178 per share. Lastly, she retained this sum all the while and did not at any time offer to return the same. Between July 2010 (when Respondent No. 2 handed over the cheque of Rs. 24,01,942/- to the Appellant) and October 2012, there was no whisper on her part towards objecting to or challenging the transaction of sale. From these facts, which are hardly in dispute, the CLB has deduced that the Appellant was a consenting party to the transaction of sale and even accepted the price, namely, Rs.1178 per equity share; and that she, being thus a party to the transaction including the price, was stopped from contending that she did not desire to sell her shares at the rate of Rs.1178 per equity share. This conclusion is clearly supported by evidence; there is no irrelevant material considered by the CLB whilst arriving at the conclusion; and no relevant material is disregarded. It certainly represents a possible view on the basis of the material before the Court. The Appellant's case that she accepted the amount merely as an earnest / advance does not inspire any confidence. There is apparently no reason, and it cannot be accepted as a pure coincidence, that the amount of earnest / advance should be an odd figure of Rs. 24,01,942/-, and that it should happen to fortuitously correspond to the value of 2039 shares at the rate of Rs.1178 per equity share.

8 The CLB acknowledged the fact that the value of land arrived at, namely, Rs.12 crores, was lower than the ready reckoner value. The CLB, however, accepted the reasons set out by Respondent Nos. 2 and 4 to 8 for arriving at the particular value. These reasons were: (a) Respondent No. 1 had not conducted any business for 20 years with the result that the

property was in a dilapidated condition; (b) the heavy floods of 2006 had severely damaged the building and other assets; (c) the property was somehow saved by virtue of a loan of Rs.41.44 lacs extended by Respondent No. 2; (d) none of the shareholders were willing to put in any money; (e) as a result, the Javeri family, which owned 94.54% shareholding in the Company decided to sell its shareholding; (f) the Company nominated Respondent No. 2 to identify prospective purchasers; (g) Respondent No. 2 commenced the work of finding prospective buyer, but his efforts were hampered by the global recession of 2009; (h) Respondent No. 2 obtained a valuation report and also assessed the possibility of development of the property through the Company with its own resources, but no shareholder was willing to contribute; (i) in the meantime, Respondent No. 7 approached to buy over the entire stake of Javeri family for a total amount of Rs.12 Crores, which included discharging of the family's liabilities in the books including all loans (aggregating to approximately Rs.85 lacs); and (j) this offer, which worked out to Rs.1178 per equity share, was superior to all offers previously received. (Besides, there were other factors, according to the contesting Respondents, such as height restriction in the property due to vicinity of airport, reservations and encroachments on some portions and poor access and surrounding slums, which affected its valuation.) The CLB found these reasons to be sound and convincing for justification of the value at which the property was agreed to be sold. These are all cogent reasons, relevant for valuation of the property. The impugned order cannot be said to be suffering from any perversity on this account.

9 It is a private sale of property by parties with open eyes and at arm's length. It was for the Appellant to accept or reject the price. In any event, she was expected to exercise due diligence in the matter of the

proposed sale. There is nothing on record to show that she did so. A mere difference between the price fixed and the ready reckoner value (price being lower) does not detract from the genuineness of the sale. There is no other material placed by the Appellant before the Court to substantiate her allegation about deliberate undervaluation. There is no better offer placed on record for purchase of the property. Apart from relying upon the ready reckoner rate, the Appellant has, in support of her case, simply preferred to criticize the documents relied upon by the Respondents to prove their *bona fides* in this behalf, such as the advertisement in newspapers for sale of the property, valuation report of the consultants obtained by Respondent No. 2, project feasibility report relied on by the Respondents and some seemingly contradictory stands taken by the Respondents in their pleadings. This does not carry the Appellant's case any further. There is absolutely no positive evidence on her part in support of her case of *mala fides*.

10 There is absolutely no substance in the Appellant's case of expropriation of her 8738 shares. This entire case is built on the initial payment to Ms. Bindu Javeri for the Appellant's 8738 shares and the payment of full consideration to other shareholders as against the payment of Rs. 24,01,942/- (representing value of only 2039 shares) to the Appellant. The explanation offered by Respondent Nos. 2 and 4 to 8 is that only 2039 shares of the Appellant were deposited with Respondent No. 2 and therefore, the consideration paid to her (i.e. Rs. 24,01,942/-) corresponded only to 2039 shares. It is submitted that payment for the balance 8738 shares initially in favour of Bindu Javeri and Meena Khetani was on the basis of a proposed gift of shares to her in pursuance of a family arrangement, which anyway did not materialize due to the pre-emption clause in the Articles and as a result these payments were reversed. The

Respondents were, at any rate, prepared to pay the Appellant the consideration for her balance 8738 shares at the same rate, i.e. Rs.1178 per share. The CLB accepted this case. There is nothing on record on which this acceptance can be shown to be perverse. Besides, it is a complete non-issue. The contesting Respondents accept that the Appellant is the owner of these 8738 shares and entitled to receive the consideration for these shares. They have offered to pay this amount to the Appellant not only before the CLB when the petition was argued but also before this Court. There is, thus, no substance in the Appellant's case of expropriation of her 8738 shares.

11 That brings us to the Appellant's case of invalidity of the appointment of Respondent Nos.9 and 10 as additional directors on the Board of Respondent No.1. One Anant Khetani was appointed a director of Respondent No.1 in the AGM of 30 September 2010. The Appellant challenges the appointment of Anant Khetani as a permanent director of Respondent No.1 as ineffective and illegal as also execution of a power of attorney by him along with the other director, namely, Respondent No.2 in favour of Respondent No.7 for effecting the sale, as null and void. It is submitted that invalidity of Anant Khetani's appointment in turn invalidates the appointment of Respondent Nos.9 and 10 as additional directors with the use of the resolution to which Anant Khetani was a party. The Appellant contends that the purported meeting of the Board of Directors dated 10 April 2010, where the name of Anant Khetani was proposed as an additional director and pursuant to which the AGM of 30 September 2010 was called for his confirmation as a director, was not held. She relies mainly on the pleadings of Respondent No.3 in this behalf where the later denies having received any notice of the meeting or attended the meeting. The Appellant submits that the notice calling the AGM of 30 September 2010 did not refer

to any 'special business' of appointment of Khetani as a director. The Appellant submits that in the face of these categorical assertions, no document including attendance register is produced by the contesting Respondents to show that the meeting was duly convened and held, there was proper quorum at the meeting and the resolution appointing Anant Khetani was duly passed. Holding of this meeting and appointment of Anant Khetani as a permanent director is predominantly a question of fact (though there is also an element of law forming part of it). The CLB, whilst analyzing rival contentions of the parties in the light of the material available before the court, in the first place, noted that Anant Khetani was no more a director having admittedly resigned from the Board before the relevant date and validity of his appointment was no more of any consequence *per se* and need not be considered for its own sake. The powers exercised by the CLB under Section 402 of the Act (read with Sections 397 and 398) are with a view to bring to an end the acts of oppression and mismanagement and, in the premises, the CLB was clearly right in not entering any direct finding on the validity of the appointment of Anant Khetani. Insofar as the appointment and execution of a power of attorney bore on the subsequent appointment of Respondent Nos.9 and 10, the CLB accepted the explanation of the contesting Respondents that no adverse inference on the basis of the alleged omissions could be drawn as to the validity of the Board meeting of 10 April 2010 or the AGM of 30 September 2010. The minutes of Board meeting of 10 April 2010 showed the name of Respondent No.3 as present at the meeting. Although she denied her presence in her pleadings, the CLB found it difficult to believe that she should have not challenged the minutes or business transacted therein at any time prior to the filing of the petition. (Respondent No.10, Ms.Kamala Javeri, who proposed the name of Anant Khetani, has not disputed the position.) The CLB also found it odd that

Respondent No.3 did not at any time question the resolution for execution of the power of attorney by Respondent No.2 and Anant Khetani, if it was her case that Anant Khetani was not a director and the resolution was supported only by one director, i.e. Respondent No.2. (Respondent No.3 was admittedly a director during the relevant period and could be presumed to be in the knowledge of the execution of the power of attorney.) In the premises, the CLB did not believe the case of Respondent No.3. Since the whole basis of challenge to the appointment of Respondent Nos.9 and 10 was the invalidity of the appointment of Anant Khetani and this latter invalidity was mainly based on the case of Respondent No.3, the CLB did not find any substance in the challenge.

12 This again is a clearly possible view which can be said to be supported by some evidence on record. It is not a case of no evidence. The matters considered by the CLB in this behalf are relevant and germane to the issue and there is no irrelevant material used for basing the conclusion on. The impugned order, thus, cannot be faulted on a question of law.

13 In the light of the foregoing discussion, there is no merit in the appeal and the same deserves to be dismissed.

14 Coming now to the Notice of Motion of Respondent Nos.4 to 8 (Plaintiffs) in their own specific performance suit (Notice of Motion No.33 of 2013), the interim reliefs are claimed on the basis of a *prima facie* case of take over of the entire shareholding of the Javeri family (94.56%) in Respondent No.1 by the Plaintiffs. I have already held that Respondent No.2 (Defendant No.2 in the suit) was *prima facie* duly authorized to identify a purchaser for the entire shareholding of Javeri family; he did identify the

Plaintiffs as purchasers for a competent price of Rs.1178 per share, which together with the liabilities taken over by the purchasers works out to about Rs.12 crores. Out of the total 94489 shares of the Javeri family valued at about Rs.11.13 crores (at the rate of Rs.1178 per share), 85,751 shares have already paid for at an aggregate value of about Rs.10.10 crores and what remains to be paid is about Rs.1.03 crores for 8738 shares held by the Appellant (Defendant No.1 in the suit), as shown below :

Sr. No.	**Name of Individual**	**No. of Shares**	**Value**	**Amount Paid**	**Balance**
a.	Alka Javeri (Defendant No.3)	26052	3,06,89,256.00	3,06,89,256.00	Nil
b.	Sangeeta Javeri (Defendant No.4)	28131	3,31,38,318.00	3,31,38,318.00	Nil
c.	Kamla Javeri (Defendant No.5)	2728	32,13,584.00	32,13,584.00	Nil
d.	Sagar Javeri (Defendant No.2)	26801	3,15,71,578.00	3,15,71,578.00	Nil
e.	Ranjan Javeri (Defendant No.1)	10777	1,26,95,306.00 (out of which a sum of Rs.24,01,942/- has been received)	24,01,942.00	1,02,93,364.00
	TOTAL	94489	11,13,08,042	10,10,14,678.00	1,02,93,364.00

None of the Defendants, save and except Defendant No.1 (Appellant in the Company Appeal) and Defendant No.3 (Respondent No.3 in the Company Appeal), opposes the Notice of Motion. As regards Defendant No.3, she has admittedly received the entire value of her 26052 shares aggregating to over Rs.3.06 crores. As for Defendant No.1 (i.e. Appellant in the Company Appeal), I have already noted the Plaintiffs' willingness to deposit the entire balance amount payable to her.

15 The Plaintiffs have already made out a *prima facie* case of a valid and subsisting agreement for sale of shares. Though the shares themselves are a movable property, they are not ordinary articles of commerce or goods obtainable in the market. They really represent the entire balance stake of Javeri family in Respondent No.1 company taken over by the Plaintiffs. The Plaintiffs have substantially performed their part of the agreement and are ready and willing to perform their balance obligations. After coming into possession, the Plaintiffs claim to have restored the Kurla property to a workable unit and also managed to remove a few encroachers. The Plaintiffs have been conducting a marble processing and warehousing unit with a large number of workers in the property. The balance of convenience is clearly in their favour. In the premises, the Plaintiffs deserve to be granted interim protection as provided hereinbelow, against the deposit into this court of amount mentioned hereinbelow.

16 Considering the peculiar facts and circumstances of the case, the following interim relief, in my opinion, should meet the ends of justice. Defendant Nos.2, 4 and 5, who between them hold 26801, 28131 and 2728 shares, respectively, of Respondent No.1, do not dispute either the agreement for sale of shares or the receipt of full consideration by them towards such sale. Out of their shares, 2760 shares of Defendant No.2, 1 share of Defendant No.4 and all 2728 shares of Defendant No.5 are already deposited with Malvi Ranchoddas & Co., Advocates & Solicitors, towards completing the sale. There is no reason why the balance shares should not be deposited by them into this Court. As for Defendant No.3, though she opposes the Notice of Motion, she has received the full consideration for her 26052 shares aggregating to over Rs.3.06 crores. *Prima facie* she is bound and liable to execute share transfer forms and hand over the shares along

therewith to the Plaintiffs. It is in the interest of justice that even she be directed to deposit her shares in this court pending the hearing and final disposal of the suit. As for Defendant No.1 (Appellant in the company appeal), I have already held that she has been a party to the transaction of sale and if the Plaintiffs bring the unpaid amount payable to her into the Court, she may well be ordered to deposit her balance 8738 shares into the court. The only question that may have to be considered at the trial would be of interest, if any, payable to her in the interregnum. The Plaintiffs' case is that they were always ready and willing and even offered to pay her, but that she refused to accept the payment. On the other hand, the record bears out that unlike others, who were paid without their having deposited their shares, she was not paid at the relevant time, and instead a wrong party, Bindu Khetani, was paid for the shares held by Defendant No.1, which entry was reversed subsequently and ever since then the Plaintiffs have had the benefit of the money payable for those shares, whilst, at the same time, being in complete control of Respondent No.1 and possession of the property. I am of the view that in these facts, it would be in the interest of justice to direct the Plaintiffs to deposit the sum of Rs.1,02,93,364/- payable for the balance shares of Defendant No.1 with interest at the rate of 12% p.a. from 21 July 2010 (when the amount could be said to be originally payable) till the date of the deposit. Defendant No.1 may have an option to withdraw the principal sum of Rs.1,02,93,364/- from out of this sum against deposit of transfer forms duly signed by her in blank for all her shares (she not having executed any transfer form except for 10 shares). The balance amount may have to be deposited in appropriate fixed deposits during the pendency of the suit.

17 The Company Appeal and Notice of Motion are, accordingly,

disposed of in terms of the following order :

(i) Company Appeal No.11 of 2015 is dismissed;

(ii) Defendant Nos.2 to 5 shall deposit with the Prothonotary & Senior Master of this Court shares held by them in Khetani Textiles Industries Pvt. Ltd., i.e. 24041 shares held by Defendant No.2, 26052 shares held by Defendant No.3 and 28130 shares held by Defendant No.4, within a period of eight weeks from today;

(iii) The Plaintiffs shall deposit with the Prothonotary & Senior Master a sum of Rs.1,02,93,364/- along with interest at the rate of 12% per annum from 21 July 2010 till the date of deposit, within a period of eight weeks from today, with intimation to the advocates of Defendant No.1;

(iv) Defendant No.1 shall deposit with the Prothonotary & Senior Master her 8738 shares of Khetani Textiles Industries Pvt.Ltd. within two weeks of such deposit and intimation;

(v) In case any of the Defendants do not have in their possession the original share certificates in respect of shares which are directed to be deposited with Prothonotary & Senior Master of this Court in terms of this order, the respective Defendants shall apply to the Company for issuance of duplicate shares and the Company Khetani Textile Industries Pvt. Ltd. shall issue such duplicate shares upon such application/s and then deposit such duplicate shares with the Prothonotary & Senior Master in accordance with this order.

(vi) To enable the Company to issue such duplicate shares, the Prothonotary & Senior Master shall make available the Register of Members in the custody of the Prothonotary to the Company.

(vii) Defendant No.1 shall have an option to withdraw Rs.1,02,93,364/- from out of the amount deposited by the Plaintiffs in terms of Clause (iii) above against deposit with the Prothonotary & Senior Master of share transfer forms executed in blank in respect of her 10767 shares;

(viii) The option reserved unto Defendant No.1 shall be exercised by her within two weeks of deposit and intimation as provided in Clause (iv) above, i.e. along with the deposit of her 8738 shares;

(ix) The entire amount deposited by the Plaintiffs in terms of Clause (iii) above, or in the case of exercise of option by Defendant No.1 in terms of Clauses (vii) and (viii) above, such amount minus the amount withdrawn by Defendant No.1, shall be invested by the Prothonotary & Senior Master in fixed deposit/s of Nationalized Bank/s initially for a period of two years, to be renewed from time to time and to abide by order/s that may be passed in the suit herein;

(x) No order as to costs.

(xi) In view of the disposal of the Company Appeal, the Company Application, which seeks interim order in the Company Appeal, does not survive and the same is disposed of.

(S.C. Gupte, J.)