

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL SUIT NO. 14 OF 1996**

Amit Prakash & Ors	...Plaintiffs
<i>Versus</i>	
Supplementary Foods (I) Ltd & Ors	...Defendants

Mr AC Mahimkar, i/b M/s. Mahimkar & Co., for the Plaintiffs.

**CORAM: G.S. PATEL, J
DATED: 7th January 2019**

PC:-

1. The suit seeks that an allotment of 16,68,000 shares in favour of Defendants Nos. 7 to 9 of the 1st Defendant company be declared illegal, null and void.

2. Defendants Nos. 1 and 2 entered a Written Statement in which they supported the Plaintiffs. Defendant No. 2 is a director of the 1st Defendant. He is present in Court. He confirms the support for the Plaintiffs.

3. As against Defendants Nos. 3 to 9 the suit is listed today for disposal as an undefended suit.

4. The plaint sets out that pursuant to a rights issue the existing shareholders on 1:2 basis in August 1995, the 1st Defendant claimed to have received applications for the allotment of 16,87,493 equity shares. It claimed to have allotted 16,87,443 shares to various applicants but of these 16,68,000 were allotted to the wife, mother and a company wholly under the control of Defendant No. 6 as set out in paragraph 5 of the plaint. In paragraph 6, the Plaintiffs have chased the manner in which the funds were routed ostensibly for the so-called rights subscription. It is the case of the Plaintiffs that this acquisition is in violation of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Take Overs) Regulation 1994 and a Notification dated 4th November 1894 and also ultra vires the Articles of Association of the company.

5. The terms of the letter of offer are set out and it is submitted that the allotment is contrary even to the express conditions of the letter of offer. The allegation is that the entire acquisition of the suit shares was clandestine and fraudulent and is, therefore, illegal, null and void.

6. Mr Saran is present on behalf of the Plaintiffs. He has filed an Affidavit of Evidence. It is taken on record. He confirms its correctness. He makes himself available for cross-examination. None is present for the Defendants. No cross-examination by the Defendants. A Compilation of Documents tendered by Mr Mahimkar is taken on record and marked Exhibit "P1" (Colly) in evidence.

7. The original documents are to be returned to the Plaintiffs upon these being substituted with authenticated copies in terms of Rule 306 of the Bombay High Court (Original Side) Rules.
8. The suit is accordingly decreed in terms of prayer clauses (a) and (b) jointly and severally against Defendants Nos. 3 to 9. In the facts and circumstances of the case, there will be no order of costs since Defendants Nos. 1 and 2 support the Plaintiffs and a declaration will suffice.
9. Drawn up decree expedited.
10. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J)