IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION

INTERIM APPLICATION NO.1835 OF 2021
IN
TESTAMENTARY PETITION NO.458 OF 2017

Ian John Pinto ...Applicant

In the matter between :

Ian John Pinto ...Petitioner
V/S
GEPL Capital Limited …Respondent

Mr. Sheetal Shah i/by M/s. Mehta & Girdharlal for Petitioner.
Mr. Fennil Sangoi, the employee of GEPL Capital Pvt. Ltd. for Respondent (Company).

CORAM : R. I. CHAGLA, J.
DATED : 26th OCTOBER, 2021.

P.C.

Heard learned counsel for the Applicant/Petitioner.

2. Mr. Fenil Sangoi, the employee of GEPL Capital Pvt. Ltd., has been authorized by the company vide letter dated 25th October 2021 to appear in the above matter and for making Application as well as executing other documents and to do all such facts, deeds and things necessary thereto. The authority letter dated 25th October

2021 executed on behalf of the company by Mr. Vivek Gupta (Director) is taken on record and marked 'X' for identification.

3. Leave to amend is granted to the Applicant to change the name of Respondent from GEPL Capital Ltd. to GEPL Capital Pvt. Ltd.. Amendment shall be carried out forthwith. Re-verification is dispensed with.

4. By the present Interim Application, the Applicant is seeking a direction to be issued to GEPL Capital Pvt. Ltd. (Respondent) to transfer the shares to the beneficiaries as mentioned in the delivery instructions in question.

5. GEPL Capital Pvt. Ltd. has refused to transfer the shares to the beneficiaries of the deceased by their email dated 20th July 2021 which states that the Petitioner/Applicant was transferring the shares to beneficiaries, who are not under the definition of "primary beneficiaries" as per reasons forth in clauses 30, 31 and 32 of the circular issued by CBSF dated 14th August 2019 and 15th July 2019.

6. It is the case of the Applicant that the Applicant had been granted the succession certificate on 8th February 2018 of all the shares of the properties and credits of the deceased Benjamin Percy Machado alias Benjamin Machado. The Applicant executed and submitted a duly filled delivery instruction slip on 28th May 2021 with the Court certified copies of succession certificate as well as the Petition filed in this Court to the Respondent for transferring the shares mentioned in the delivery instructions slip to the beneficiaries who are the heirs of the said deceased. Respondent refused to acknowledge the receipt of delivery instructions and as mentioned by their email dated 28th July 2021 rejected the transfer of the shares to the beneficiaries of the deceased.

7. Learned counsel for the Applicant has submitted that the beneficiaries of the deceased are the eight siblings of the deceased and their respective children. She has submitted that the beneficiaries of the deceased are nothing but the heirs of the deceased and would classify under the definition of "family relationship" and thus, there was no reason for Respondent-GEPL Capital Pvt. Ltd., to have

rejected the transfer of shares to the beneficiaries. It is accordingly submitted that the relief sought for in the Interim Application be granted.

8. Mr. Fenil Sangoi, appears before this Court as the employee of GEPL Capital Pvt. Ltd. having been authorized so appeared by the company vide letter dated 25th October 2021, which has been taken on record and marked “X” for identification.

9. He has supported the reasons mentioned in the email dated 20th July 2021 by GEPL Capital Pvt. Ltd. for rejecting the transfer of shares to the beneficiaries and has stated that the beneficiaries do not fall under the definition of “family relationship”.

10. Having considered the submissions, the rejection of the transfer of the shares to the beneficiaries by email dated 20th July 2021 is erroneous. The Applicant had applied to the Respondent by virtue of being granted of succession certificate of all the shares of the said deceased transmitted in favour of the Applicant in demat account of Respondent bearing client ID No.00247112. Since the

beneficiaries, who are the siblings and heirs of the siblings of the deceased were entitled as heirs to the shares in GEPL Capital Pvt. Ltd., which had been transmitted in favour of the Applicant, to the transfer of these shares by the Respondent.

11. The siblings and heirs of the siblings of the deceased clearly fall within the definition of “family relationship” and are primary beneficiaries. The Applicant being the son and heir of one of the siblings of the deceased, would also fall within the definition of “family relationship”.

12. Thus, there was no reason for Respondent-GEPL Capital Pvt. Ltd., to have rejected the transfer of shares from their demat amount from the Applicant to the beneficiaries of the deceased. The circulars dated 14th August 2019 and 15th July 2019 cannot be relied upon by GEPL Capital Pvt. Ltd., to reject the transfer of these shares to the beneficiaries.

13. In view thereof, the Interim Application observed to be allowed. Hence, the following order:-

(i). GEPL Capital Pvt. Ltd. (Respondent) is directed to transfer the shares to the beneficiaries as mentioned in the delivery instruction, which had been submitted by the Applicant on 20th May 2021, within a period of three weeks from the date of this Court.

(ii). Interim Application is disposed of in the above terms. There shall be no other as to costs.

(R. I. CHAGLA, J.)