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

INTERIM APPLICATION NO. 1775 OF 2022
IN
TESTAMENTARY PETITION NO. 801 OF 2018

Jiwanda Ram Narang alias
Javinda Ram Narang alias
Jiwanda Rama Gang ...Deceased

Kamlesh Magoo
W/o Jagdish Chander Magoo ...Applicant/Org. Petitioner

Mr. Karl Tamboly a/w. Mr. Malcom Singanporia, Ms. Sheetal Shah and Ms. Dimple D. Bitra i/by M/s. Mehta and Girdharlal for Applicant/Org. Petitioner.
Ms. Olive D'Souza for Respondent.

CORAM : ARIF S. DOCTOR, J.
DATE : 24th March, 2023

P.C. :

1. This Court on 29th December, 2021 granted the Applicant a Succession Certificate in respect of certain debts and securities of Jiwanda Ram Narang (the deceased). One of the securities of the deceased were 183 shares of the Respondent- Company. The present Interim Application is taken out by the Applicant since, Respondent-Company has despite being called upon to transfer the said 183 shares to the Applicant's name, has failed and neglected to do so.

2. Learned Counsel appearing on behalf of the Applicant invites my attention to the Succession Certificate dated 29th December, 2021 and points out that the same specifically make a mention of the said 183 shares of the Respondent-Company, standing in the name of the deceased. Learned Counsel submits that despite the issuance of the said Succession Certificate, the Respondent-Company is refusing to transfer the said shares to the Applicant's name in pursuance thereof.

3. Learned Counsel appearing on behalf of the Respondent-Company is not transferring the shares since, the same are subject matter of an attachment by Income Tax Authorities. Learned Counsel submits that this is the only reason why the said shares are not being transferred to the name of the Applicant's. To this, learned Counsel for the Applicant submits that once a Succession Certificate is issued, the Respondent-Company is bound to act, in accordance with the same and cannot in its discretion refuse to act on the basis thereof. He further submits that in any view of the matter the attachment (if any) would continue to subsist even after the transfer to the Applicant's name.

4. Learned Counsel invites my attention to an order passed by a learned Single Judge of this Court (G. S. Patel J.) passed co-incidentally against the same Respondent-Company, again in a case where despite a Succession Certificate having been issued, the Respondent-Company had refused to transfer the shares on the basis of the Succession Certificate. Learned Counsel pointed

out that in the facts of that case, this Court pleased to observe as under:-

> *"7. On behalf of MRF Ltd, it is submitted that there are discrepancies in the PAN Card and other documents. The Plaintiff's father's name on some documents is shown as 'Harilal Sundardas Gandhi'. There is also an error in the death certificate where the name is shown as Hiralal rather than Harilal.*
>
> *8. MRF is not concerned with any of this and nobody has appointed MRF Ltd to investigate documents or to adjudicate upon them. It is not being asked to look at the PAN Card or death certificate. Once there is a Succession Certificate in the name of Harilal Valabdas or Vallabhdas Gandhi,the same name that reflects in MRF Ltd's records, and that Succession Certificate is issued under the imprimatur of the Court, nothing further remains to be done ad no further questions are possible at MRF Ltd's instance. MRF Ltd cannot be seen to be questioning a Succession Certificate issued by this Court. As far as MRF Ltd is concerned, it is fully protected by this order of the Court. It is always open to MRF Ltd to submit before any Authority or any Court that it has acted in compliance with directions of this Court."*

5. From the above, he pointed out that while the facts of the present case are slightly different, the principals laid down is the same i.e. that a Company is bound to act upon a Succession Certificate. Basis the above, he submits that the Applicant is entitled to relief more particularly prayed for.

6. I have heard learned Counsel and perused a copy of the said Interim Application as also the Affidavit in Reply filed by the Respondent-Company. Since, the learned Counsel appearing on behalf of Respondent

submits that the only reason for not transferring the shares was that the attachment of the Income Tax Authorities and the learned Counsel appearing on behalf of Applicant clarifies that the attachment, if any, would continue to subsist. I find that it is not necessary to delve further into the matter.

7. Hence, the following order is passed:-

i. The Interim Application is allowed in terms of prayer clause (a) which reads as under:-

> *(a) that Respondent be directed to transfer in favour of the Applicant, 183 shares of MRF Limited standing in the name of the Jiwanda Ram Narang alias Javinda Ram Narang, alias Jiwanda Rama Gang, deceased along with the unclaimed dividend thereon under Folio No.N00258 within a period of 2 weeks from the passing of the Order;*

ii. Learned Counsel appearing on behalf of the Applicant submits that the Application for transfer the shares has been already given to Respondent-Company. The Respondent-Company to act upon the same after the Applicant furnishes a requisite undertaking/indemnity to the satisfaction of the Respondent-Company.

iii It is made clear that the attachment (if any) of the Income Tax Authorities shall continue to subsisting on the said shares post the transfer.

iv. Applicants will be at liberty to have the attachment (if any) lifted.

8. Affidavit in Rejoinder on behalf of Applicant to Reply on behalf of the Respondent is taken on record.

9. In view of the above, Interim Application is disposed of.

(ARIF S. DOCTOR, J.)