

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

INTERIM APPLICATION NO.239 OF 2023
IN
TESTAMENTARY PETITION NO.1762 OF 2021

Gladys Amelia Slark alias
Gladys Amelia Christian : Deceased

Celia Georgina D'Costa
Through her Constituted Attorney
Ajit Jude Ireaneus Lobo : Petitioner.

In the matter between

Celia Georgina D'Costa
Through her Constituted Attorney
Ajit Jude Ireaneus Lobo : Applicant/Org.Petitioner.

Versus

The Investor Education & Protection
Fund Authority
Through Rajesh Verma, Secretary & ors. : Respondents.

Mr. Karl Tamboly a/w Ms. Sheetal Shah a/w Ms. Dimple Bitra and Adv. Jeyhaan
Carnac i/by M/s. Mehta & Girdharilal for the Applicant/Org.Petitioner.

CORAM : ARIF S. DOCTOR, J.

DATE : 7th FEBRUARY 2023

P.C. :

1. The present Interim Application has been filed seeking the
following prayers :-

“(a). That Respondent No. 5 be directed to issue Entitlement Letter and E verification, within a period of 2 weeks from the date of passing of the Order;

(b) That Respondent Nos 1 to 4 be directed jointly or severally to transfer in favour of the Applicant, 13330 shares of Coromandel International Limited standing in the name of Gladys Amelia Slark alias Gladys Amelia, the deceased along with the unclaimed dividend thereon under Folio No. CFL100823 within a period of 2 weeks from the date of receipt of Entitlement Letter and E Verification from Respondent No. 5;

2. Mr. Tamboly, learned Counsel appearing on behalf of the Applicant submitted that this Court had on 27th October, 2021 granted to the Applicant a Succession Certificate in respect of the securities and credits of Gladys Amelia Slark (the deceased). From the Succession Certificate, Mr. Tamboly points out the as follows:-

- i. Succession Certificate makes a specific reference to 13,330 equity s
Shares bearing Folio No. CFL100823 in Coromandel International
Limited i.e. Respondent No.5 Company (“the said shares”).
- ii. That the Succession Certificate categorically provided as follows:

“This Certificate is accordingly granted to you and empowers you to transfer, negotiate or otherwise deal with the said Securities and to receive dividends thereon.”

Mr. Tamboly then invited my attention to a an e-mail dated 14th June, 2021 addressed by the Registered Share Transfer Agent (RSTA) of Respondent No. 5 which confirms that the said shares stood in the name of the deceased in the record of Respondent No. 5 Company.

3. Mr. Tamboly, therefore, submitted that it was not beyond the pale of doubt that a) the said shares stood in the names of the deceased in the records of Respondent No. 5 Company b) by virtue of the Succession Certificate the Applicant to transfer, negotiate or otherwise deal with the said shares. He submitted that despite that the Applicant being armed with a Succession Certificate Respondent No. 5 had failed and neglected to issue to the Applicant a Letter of Entitlement and also complete the E-verification process. He submits that the Petitioner had complied with all the necessary requisitions of Respondent No. 5/RSTA despite which the Respondent No. 5 had without any valid justification not issued to the Applicant the Letter of Entitlement. He submits that despite being empowered to transfer, negotiate or otherwise deal with the said shares, Respondent No. 5 was refusing to issue to the Petitioner a Letter of Entitlement.

4. Mr. Tamboly then took me through the Application and pointed out that the Applicant had repeatedly complied with all requisitions sought for by the RSTA/ Respondent No. 5 Company. He submitted that on one pretext or the other Respondent No. 5 was failed and neglected to issue the Letter of Entitlement to the Petitioner. He submitted that Respondent No. 5 had called upon Applicant to produce documents that were not only holly irrelevant but also ignored the fact that the Applicant had been granted a Succession Certificate by this Hon'ble Court in respect of the said shares. He pointed out

that one such requisition of Respondent No. 5 which not only belied, non application of mind but also ignore the fact that the Succession Certificate had been issued by this Hon'ble Court to the Applicant was that Respondent No. 5 had called upon the Applicant to produce the death Certificate of the deceased duly apostilled by the Indian Embassy in Canada. Since the deceased had died overseas. He submitted that such a request was completely unjustified in view of the fact that a Succession Certificate had already been granted by this Court to the Applicant. He submitted that the Respondents were making the Petitioner run from pillar to post for no apparent reason and were ignoring the fact the Applicant had been granted a Succession Certificate in respect of the said shares of the deceased. Mr. Tamboly pointed out that Respondent No. 5 despite being served had failed and neglected to appear before this Court.

5. I have heard learned Counsel appearing on behalf of the Applicant and perused a copy of the Interim Application and also the annexures thereto. I find that the submission of Mr. Tamboly are not without merit. In the present case, the Applicant has a Succession Certificate granted by this Court, which in terms lists the 13,330 shares as being securities belonging to the deceased. The RTA has also confirmed that the very same shares stands in the name of the deceased in the records of Respondent No. 5 Company. The Succession Certificate which is granted under a seal of the Hon'ble Chief Justice of this Court in terms provides that the Applicant is empowered to transfer, negotiate

or deal with the securities (mentioned in the Succession Certificate). It is therefore, not clear as to why or on what basis the Respondent No. 5 would chose to ignore this Succession Certificate and not grant to the Applicant a Letter of Entitlement, especially when RTA has confirmed that the said shares has set out in the Schedule of the Succession Certificate are in the deceased name in the records of the Respondent No. 5 Company. Such conduct of Respondent No. 5 boders on being contumacious. It is shocking that when this Court has granted a Succession Certificate to the Applicant, Respondent No. 5 would chose to ignore the same and called upon the Applicant to produce a Death Certificate of the deceased duly apostille by the Canadian Embessy.

6. In the circumstances, I pass the following order :-

Order

- i. Respondent No. 5 to issue a Entitlement Letter and complete E-verification within a period of two weeks from the service of this order upon Respondent No. 5.
- ii. In the event Respondent No. 5 should required the Applicant to furnish an indemnity for issuance of the Duplicate Share Certificate/ Entitlement Letter. A format of such indemnity served upon the Applicant within a period of one week from receipt of the order.

iii. Respondent No. 5 Company to issue the Entitlement Letter and complete E-verification within one week from the Applicant furnishing such Indemnity to the satisfaction of Respondent No. 5.

(ARIF S. DOCTOR, J.)