BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2024

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P (MD).No.27437 of 2024
and
W.M.P.(MD)No.23275 of 2024

M. Lakshmanan ... Petitioner

Vs.

1. Investor Education and Protection Authority (IEPF), Ground Floor,
   Jeevan Vihar Building,
   Ministry of Corporate Affairs,
   3, Sansad Marg, Janpath,
   Connaught Place, New Delhi-110 001.

2. City Union Bank Limited
   Rep by its Deputy General Manager (Shares),
   No. 24 B, Narayan, Gandhi Nagar,
   Kumbakonam 612 001, Tamil Nadu. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in SRN R10354124 dated 01.11.2019 and SRN F87474334 dated 11.12.2023 of the first respondent and quash the same and consequently direct the respondents to effect transfer of 35062 shares of City Union Bank Limited vide Folio No. CUB0009278 in favour of the petitioner.

For Petitioner : Mr.V.R.Shanmuganathan

For Respondents : No appearance

: Mr.P.Madhan Alexander, St. Counsel for R2

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 01.11.2019 and 11.12.2023 , thereby rejected the claim made by the petitioner under Form IEPF -5, thereby rejected the request of transfer of 35062 shares of the second respondent vide Folio No. CUB0009278 in favour of the petitioner.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The petitioner's mother, viz., M.Vijayalakshmi, had purchased 25,500 shares of the second respondent Bank bearing certificate No.9278 and 6375 shares bearing certificate No.56515 in Folio No. CUB0009278. She died on 27.05.2001. The petitioner and other legal heirs were issued legal heir certificate on 29.10.2004. As per the provision under Section 124(6) of the Companies Law 2013, the shares which were not transferred within 7 years from the date of death of the shareholder, it will transferred to the first respondent IEPF, a statutory authority constituted under Section 125 of the Indian Companies Act, 2013. Therefore, the petitioner filed succession Petition in O.P.No.5 of 2015 on the file of the District Munsif, Tiruchirappalli, in order

to succeed the shares owned by the petitioner's mother. It was ordered and the petitioner was issued succession certificate on 14.10.2015, since the other legal heirs had no objection for transferring the share of their mother in favour of the petitioner. Along with the succession certificate, the petitioner had applied under Form 5 before the first respondent on 01.11.2019. Form -5 is the requisite from under Rule 6(13) and Rule 8(1) of the IEPF Authority Audit Transfer and Refund Rules 2016, issued under Section 125 (3) of Companies Act, 2013 for transferring the shares from the shareholders to their legal heirs. Even then, the first respondent without any reasons mechanically rejected by one line order.

4. It is relevant to extract Section 124 (6) of the Companies Act, which reads as follows:

> *"(6) All shares in respect of which dividend has not been paid or claimed for seven consecutive years or more shall be transferred by the company in the name of Investor Education and Protection Fund along with a statement containing such details as may be prescribed:*
>
> *Provided that any claimant of shares transferred above shall be entitled to claim the transfer of shares from Investor Education and Protection Fund in accordance with such procedure and on submission of such documents as may be prescribed.*

[Explanation.— For the removal of doubts, it is hereby clarified that in case any dividend is paid or claimed for any year during the said period of seven consecutive years, the share shall not be transferred to Investor Education and Protection Fund.]"

5. Thus, it is clear that if any claim or dividend not paid for seven consecutive years, the shares will be transferred in favour of the first respondent. The proviso prompts the claim for transfer in accordance with the procedure and on submission of documents. Accordingly, the petitioner after obtaining succession certificate applied under Form 5 IEPF before the first respondent. It is not the case of the first respondent that the petitioner is not the legal heir or cannot succeed his shares owned by his mother. Though the petitioner and others are the legal heirs of the deceased mother, others had no objection and the petitioner was issued succession certificate to succeed his mother's shares.

6. Though notice served on the first respondent, name printed, no one present today in person or by counsel.

7. In view of the above, the impugned proceedings passed by the first respondent is liable to be quashed and accordingly quashed.

8. This Writ Petition is allowed. The first respondent is directed to transfer the shares of the petitioner's mother in favour of the petitioner within a period of two weeks from the date of receipt of copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Internet : Yes
Index : Yes/No
NCC : Yes/No
LS

29.11.2024

To

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   Authority (IEPF), Ground Floor,
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2. City Union Bank Limited
   Rep by its Deputy General Manager (Shares),
   No. 24 B, Narayan, Gandhi Nagar,
   Kumbakonam 612 001, Tamil Nadu.

G.K.ILANTHIRAIYAN, J.

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