

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

INTERIM APPLICATION NO. 959 OF 2025

IN

TESTAMENTARY PETITION NO. 1862 OF 2021

Katherine Clerides

...Applicant/Petitioner

Versus

Torrent Power Limited & Ors

...Respondents

Ms. Sheetal Shah a/w Megha C. for the Applicant.

Mr. Akshay Udeshi for Respondent No. 1.

Ms. Seema Ram Gupta i/b Ashish Mehta for Respondent Nos. 2 to 5.

CORAM : ARIF S. DOCTOR, J.

DATE , 18TH MARCH 2025

P.C. :

1. By the present Interim Application, the Applicant, seeks the following reliefs:

“(a) That Respondent No 1 Company be directed to intimate the procedure for transmission of the shares along with interest accrued thereon within one week of passing of the Order;

(b) That Respondent No 1 Company be directed to file positive E -Verification Report within one week of receipt of documents;

(c) that Respondent Nos 2 to 5 be directed jointly or severally to transfer in favour of the Applicant, a total of 12,972 (shares of Torrent Power Limited) standing in the name of Kate Accles Erulkar alias Kate A Erulkar, the deceased person, along with the unclaimed dividend thereon under Folio Nos. 0015866 within a period of 2 weeks from the date generating the SRN Number;

- (d) That the Respondents jointly and/or severally be directed to pay the Applicant a sum of Rs 2,00,000/- (Rupees Two Lakhs Only) towards legal costs;*
- (e) That the Respondents jointly and/or directly be directed today the Applicant a sum of Rs 3,00,000/- towards mental torture, agony and harassment;*
- (f) Cost of the Application;*
- (g) any other and further orders as the nature and circumstances deemed fit"*

2. Ms. Shah, Learned Counsel appearing on behalf of the Applicant submitted that despite the fact that this Court had vide an order dated 24th February 2022, granted the Applicant a Succession Certificate in respect of the debts and securities of one Kate Accles Erulkar alias Kate A. Erulkar ("the deceased"). The first Respondent Company had neither transferred the shares nor intimated the procedure for transmission of the shares as also details of the share certificate numbers in respect of the shares held by the deceased in the first Respondent Company.

3. Mr. Udeshi, Learned Counsel for Respondent No. 1 (Company) has raised a preliminary objection as to the maintainability of this Application. It is his submission that the remedy available to the Applicant could be under the provisions of the Companies Act, 2013 more particularly Section 58(4). He submits that since the company is registered in Gujrat, the appropriate Application made before the Hon'ble NCLT, Gujrat. To this, Ms. Shah submits that the question of 58(4) does not arise because, in the facts of the present case, there has been no refusal on the part of the company to register the shares in

the name. She in fact points out that Respondent No.1 (Company) has in its Affidavit in Reply taken a stand which is contrary to what was taken in the letter dated 13th December 2021, wherein Respondent No. 1 (Company) has in the Affidavit in Reply stated that a share certificate was issued by Respondent No. 1 (Company) in the name of one Mahadeo Vaman Naik, who is administrator of late Kate Accles Erulkar alias Kate A. Erulkar i.e. the deceased. She also points out that there are no details whatsoever to explain the basis of which shares which was admittedly standing in the name of the deceased were transferred to Mahadeo Vaman Naik. Hence, today I am in agreement with Ms. Shah. I find that Respondent No. 1 (Company) has not refused to register / transmit these shares to the Applicant.

4. Hence, leaving open the issue of maintainability, let Respondent No. 1 to file a further Affidavit setting out the basis on which these shares came to be transferred to Mahadeo Vaman Naik.

5. List the matter on 1st April, 2025.

(ARIF S. DOCTOR, J.)