

(1948) 02 CAL CK 0005
In the Calcutta High Court

In Re: Murarka Paint and Varnish Works Ltd.

Date of Decision : 20-02-1948

Acts Referred:

Citation : (1948) 02 CAL CK 0005

Final Decision : Allowed

Judgement

Das, J.—This is an application on the part of Chunilal Murarka who claims to be a member of Murarka Paint and Varnish Works, Limited (hereinafter called the Company) for an order directing the Company at the cost of the applicant to supply certified true copies of balance sheets and other documents specified in the summons and to give inspection thereof. The relevant facts are as follows :-- The Company was incorporated on the 2nd September, 1921, as a private Limited Company with an authorised Capital of Rs. 5,00,000 divided into 50,000 shares of Rs. 10 each, all of which were issued subscribed and paid up in full. The applicant, who was one of the promoters of the Company, was the registered holder of 6250 fully paid up ordinary shares and was one of the directors of the Company from 1922 up to 1945. Murarka & Sons, Ltd., was and is the Managing Agent of the Company.

By an agreement in writing made on the 5th April, 1945, the applicant sold his shares to one Choteylal Murarka upon terms and conditions contained in that agreement. On the allegation that Choteylal Murarka had failed to pay for and take delivery of the said shares in terms of the said agreement the applicant filed a suit in this Court against Choteylal Murarka for the recovery of the price thereof. That suit which is being contested by Choteylal Murarka is still pending.

2. On the 4th July, 1947, the applicant by his attorney asked the Company to supply him copies of balance sheets, profit and loss accounts and certain other documents for several years as specified in that letter and offered to pay the usual charges therefor. The Company's attorneys referred to the absence of any person in the Company's office competent to give them instructions due to the disturbances then prevailing in the city and promised to deal with the letter as soon as the situation would improve. On the 8th August, 1947, a reminder was

sent to the Company's attorneys. On the 14th August, 1947, the Company's attorneys replied stating, inter alia, that they had asked the Company to let them have copies of the papers required and that they would forward the same to the applicant's attorney as soon as they would be received. On the 21st August, 1947, the applicant's attorney wrote again stating that the applicant had waited enough for the copies and that if the copies were not given on Monday then next the applicant would take steps in Court. On the 25th August, 1947, the Company's attorneys wrote enquiring as to whether the applicant was demanding the copies as a share-holder of the Company or otherwise. The applicant's attorney replied the very next day remarking that the enquiry had been obviously made at the instigation of Choteylal Murarka, the Defendant in the applicant's suit, and refused to be cross-examined and again threatened to take steps. The Company's attorneys on the 12th September, 1947, wrote back repudiating the insinuation as baseless and stating that unless the applicant disclosed the capacity in which he demanded the copies they could not make up their mind as to which of the copies the applicant was entitled to.

3. The annual vacation of the Court intervened and after the re-opening the applicant on the 21st November, 1947, took out the present summons. The affidavit in opposition was affirmed by Sohonlal Murarka, a director of Murarka & Sons, Ltd., the Managing Agent of the Company, on the 9th December, 1947. The affidavit in reply was affirmed by the applicant on the 19th December, 1947. A point was taken in the affidavit in reply that Sohonlal Murarka's affidavit had not been verified as required by law and should not be received in evidence. The affidavit of Sohonlal Murarka appears to have been verified 2nd re-affirmed on the 22nd December, 1947. It seems likely that advantage was taken of the fact that in chamber applications the papers are not filed until it is actually moved before the Judge and the affect in that affidavit was sought to be rectified apparently without the leave of the Court. This should not have been done without such leave.

4. In Sohonlal's affidavit it has been denied that the applicant is now a member of the Company. It is alleged in that affidavit that the applicant became liable to the Company for a large sum of money for which the Company claimed a lien on his shares and that it forfeited the shares of the applicant and re-allotted the same to Mohonlal Murarka, in exercise of its rights under regulations 31, 32 and 33 of the Articles of Association and that the applicant's name was thereupon removed from the register of members and Mohonlal's name was entered therein. A copy of a letter dated the 20th October, 1947, said to have been written by the Company to the applicant and Radheylal Murarka setting out the details and particulars of the Company's claim against them and calling upon them to pay up the same on or before the 6th November, 1947, and threatening to proceed under regulations 32 and 33 of the Articles and a copy of a resolution said to have been passed at a Board meeting alleged to have been held on the 11th November, 1947, forfeiting the shares of the applicant and those of Radheylal Murarka and directing their names to be expunged from the register

and allotting those shares to Mohonlal Murarka at Rs. 10 per share payable by specified instalments have been annexed to the affidavit of Sohonlal.

5. In the affidavit in reply the applicant denies that he ever received the letter dated the 20th October, 1947, or that the allegations contained therein are correct at all or that any of the persons (other than those who lived with Sohonlal Murarka) to whom copies of that letter are said to have been sent ever got such copies. He denies that he was or is indebted or liable to the Company or that the Company had any lien or could properly or at all forfeit the shares or remove his name from the register or that the aliened Board meeting was properly or at all convened or that any resolution was passed validly or at all and he maintains that he is still a member of the Company.

6. This application was adjourned by consent of parties from time to time. In the mean time the Company, it is said, has filed a suit against the applicant and Radheylal Murarka for recovery of its dues, for return of various books and documents said to have been wrongfully removed by them and for other reliefs. I am also told that the applicant on or about the 22nd December, 1947, has filed a suit against the Company claiming, in the event of his name having been removed from the register, rectification of the register and, in the event of his name being still on the register, injunction on the Company from removing his name, declaration that the alleged claim of lien on his share is illegal, ultra vires and void, declaration that the alleged resolution dated the 11th November, 1947, forfeiting his shares and selling or allotting the same to Mohonlal were and are ultra vires, illegal, fraudulent and void and other incidental reliefs.

7. Mr. M.N. Banerjee appearing for the Company has taken a preliminary objection to the jurisdiction of this Court to entertain in this application. In the course of an elaborate and able argument Mr. Banerjee has taken me through a number of sections of the Indian Companies Act imposing fines for offences for non-compliance with the requirements thereof and also authoring the Court to compel compliance therewith and his contention is that on a true construction of the relevant sections the Court having jurisdiction under the Act to try the offences and impose the penalties under those sections is the only Court which is also authorised to enforce compliance with the requirements of those sections. It is necessary, therefore, to examine the provisions of those sections in order to determine the correctness of Mr. Banerjee's contention.

8. The sections to which Mr. Banerjee has drawn my attention are secs. 31, 31A, 32, 36, 76, 82, 83, 87, 91A, 91C, 117, 123, 124, 125, 131A, 134, 135 and 137. Mr. Banerjee has attempted to classify the sections into several categories. Thus sec. 117 requires that a Company must keep a certain record but does not, by its own terms, make a non-compliance with such requirement an offence or provide for giving inspection or copy of such record to anybody and provision is made in some other section for compelling the giving of inspection or copy and imposing a fine for non-compliance (e.g., sec. 124). The common features of secs. 31, 31A and 123 are that each of them requires a Company to keep certain records

setting forth certain particulars and makes a non-compliance with such requirement an offence punishable with a fine and stops there and makes no provision for compelling the giving of inspection or copy thereof or for imposing a penalty for not giving inspection or copy which provisions are, however, made by some other section (e.g., secs. 36 and 124). Sec. 36, 83 and 125 provide for giving both inspection and copy of certain records and for punishment for failure to do so while in secs. 82 and 87 provision is made for giving inspection only and for punishment for not doing so but nothing is said about the giving of copies. Secs. 91A and 91C may be grouped together because each of them provides for giving inspection but no penalty is imposed for noncompliance with such provision and nothing is said about compelling such inspection. Secs. 83, 91A and 91C have the common feature that in each of them provision is made for giving inspection or copy to the members only while secs. 36, 87 and 124 from another class providing for giving inspection or copy to the members as well as to any other person and sec. 125 forms a third class providing for giving inspection to the members and creditors only. This classification of the sections made by Mr. Banerjee with a good deal of industry and care is interesting but leads us nowhere. Such classification shows, if anything, that it is not possible to place the sections in well-defined, self-contained and mutually exclusive categories, for some of the sections fall within more than one of those categories. It is, therefore, not possible to deduce any general principle from such classification and in any event it does not in any way help in determining the particular Court which has jurisdiction under a particular section to entertain an application for enforcing compliance with the requirements thereof.

9. Mr. Banerjee next adopts another method or basis and proceeds to classify the sections into seven categories :--

- (i) Section which provides for furnishing copy but imposes no penalty for failure and does not provide for compelling compliance, e.g., 135;
- (ii) Sections which require the Company to keep certain records and impose a penalty for contravention, e.g., secs. 91A 91C and 134.
- (iii) Sections which by one and the same sub-section impose a penalty for failure to give inspection or copy as well as authorise the Court to compel the giving of inspection or copy, e.g., secs. 36, 124 and 125 ;
- (iv) Sections which by one and the same sub-section impose a penalty for non-compliance with their requirements as well as authorise the Court on an application to compel the Company to comply with the same or to relieve the Company from the consequences of non-compliance, e.g., secs. 137 and 154 ;
- (v) Sections which by one sub-section impose a penalty for non-compliance with certain requirements but by another subsection of the same section authorise the Court on an application to enforce compliance therewith, e.g., secs. 76 and 87.
- (vi) Section which by one sub-section imposes a penalty for not giving inspection

or copy but by another sub-section of the same section authorises the Court to compel compliance, e.g., sec. 83;

(vii) Section which in express terms indicate the particular Court in which authority to make certain orders is vested thereby, e.g., secs. 281 and 282A.

10. Sec. 135 may be left out of consideration for that section does not refer to any Court. Secs. 91A, 91C and 134 may also be passed over because the relevant subsections of those sections which impose the penalty do not in terms refer to any Court and it is not possible to determine the Court which is to try those offences by means of construction of those sub-sections alone. It is by reading those sub-sections with sec. 278 that we arrive at the conclusion that those offences are to be tried in the manner by the Court specified in sec. 278. We are thus left with Mr. Banerjee's categories Nos. (iii) to (vii). Can any general principle be deduced from Mr. Banerjee's classification of the several sections placed in those categories? Is there any special feature in any of the several categories which gives us an indication as to the Court which is intended to be referred to by the sections grouped in that category? At one stage of his argument Mr. Banerjee propounds the proposition that the expression "the Court" in those sections which authorise the Court to make an order for giving inspection or copy only on an application being made to the Court means, by reason of the provisions of sec. 2 (3) read with sec. 3 the High Court having jurisdiction under the Act and that the expression "the Court" in those sections which do not require any application in order to enable the Court to make an order refers to the Court which tries the offence, that is to say, the Criminal Court. If this proposition were to be accepted then this Court will have jurisdiction to entertain this application in respect of such of the orders prayed for in the present summons as fall within the sections grouped in categories (iv) and (v), namely, secs. 137, 154, 76 and 87. This obviously does not support Mr. Banerjee's extreme contention that this Court has no jurisdiction at all to entertain any part of this application and, therefore, he drops his first proposition and propounds the second proposition, namely, that where a section by one and the same sub-section imposes a penalty and also authorises the Court to compel compliance with its requirement there the expression "the Court" means the criminal Court which tries the offence, but where a section by one sub-section imposes a penalty and by another sub-section empowers the Court to direct the fulfilment of the requirements of the section there the expression "the Court" means the High Court. If this proposition were to be accepted then this Court will have jurisdiction to entertain this application in so far as it prays for orders which come within the sections grouped under categories (v) and (vi), namely, secs. 76, 87 and 83. This also does not help Mr. Banerjee's case. In the end Mr. Banerjee has to fall back on the ordinary general rule of interpretation, namely, that each section should first be considered by itself and construed according to its own terms. In this I entirely agree with Mr. Banerjee.

11. The true principle of interpretation of a statute is to give to the words used in

it their ordinary natural meaning unless the statute itself gives them any particular or special meaning. In the latter case that particular or special meaning must be given to those words unless there be something repugnant in the subject or context. In this case the Indian Companies Act has by sec. 2 (3) defined the expression "the Court" as meaning "the Court having jurisdiction under this Act." Then sec. 3 of the Act goes on to say that the Court having jurisdiction under this Act shall be the High Court having jurisdiction in the place at which the registered office of the Company is situate or in a case to which the proviso applies the notified District Court. Therefore in ascertaining the meaning of any particular section in which the expression "the Court" is used we have to apply sec. 2 (3) read with sec. 3 and substitute for that compressed expression the words "the High Court having jurisdiction in the place at which the registered office of the Company is situate," unless there be anything repugnant in the subject or context. Is there any difficulty or objection in applying this principle to the sections we are considering and reading for the words "the Court" the words I have mentioned? So read the sections first impose a penalty for an offence for contravention of their respective requirements without expressly indicating which Court will try that offence and then authorise the High Court, or the District Court if the proviso applies, to enforce compliance with those requirements. If the offence complained of takes place within the Ordinary Original Civil Jurisdiction of the High Court of any Presidency Town the offence is, under sec. 278, punishable on summary conviction by a Presidency Magistrate of the particular Presidency and if it is committed outside the three Presidency towns the offence is punishable by the appropriate Criminal Court under the Code of Criminal Procedure. In the light of this procedure and reading the words "the Court" in the sense attached to them by secs. 2 (3) and 3 the meaning and effect of each of these penal sections are that first it creates an offence and makes it punishable on summary conviction by a Presidency Magistrate if it is committed in a Presidency town or by the appropriate Criminal Court if committed elsewhere and then authorises the High Court having jurisdiction in the place where the registered office of the Company is situate, or the notified District Court, as the case may be, to compel compliance with its requirements. Can there be any objection to this interpretation?

12. Mr. Banerjee contends that "the Court" has been defined by sec. 2 (3) as meaning the Court having jurisdiction under this Act. Sec. 3 is not a definition section but only indicates one Court having jurisdiction under the Act. There may be and indeed there is another Court having jurisdiction under the Act, namely, the Criminal Court under sec. 278. The Indian Legislature, argues Mr. Banerjee, has borrowed the language of secs. 2 (3) and 3 from the corresponding sections of the English Act and at the same time has inserted a new section, being sec. 278, in our Act which has no place in the English Act. If sec. 3 is literally taken to mean that the High Court or the notified District Court is the only Court having jurisdiction under the Act in all matters then it will be in conflict with sec. 278, for the Criminal Court exercising jurisdiction under that section must also be a

Court having jurisdiction under the Act and, therefore, within the expression "the Court" as defined by sec. 2 (3) of the Act. Mr. Banerjee argues that sec. 3 cannot, therefore, be construed in its literal sense so as to exclude the Criminal Court acting under sec. 278 from the category of the Court having jurisdiction under the Act. Mr. Banerjee's contention is that the expression "the Court" in the latter part of these sections means by reason of the definition in sec. 2 (3) the Court having jurisdiction under the Act and in the light of this definition there can be no difficulty in reading the expression "the Court" in those sections as meaning the Criminal Court trying the offence created and made punishable by the earlier part of those sections, for the Criminal Court is also a Court having jurisdiction under the Act. Mr. Banerjee further maintains that if the definition of "the Court" in sec. 2 (3) must be read with sec. 3 then that definition should not be applied to the expression "the Court" in the penal section: because the definition is applicable only if there be nothing repugnant in the subject or context and the subject or the context of the penal sections clearly indicates, and the public convenience requires, that the Court which punishes the offences should also be the Court which is to prevent the repetition of the default which will result in a further offence, for otherwise the aggrieved person will have to prosecute in one Court for the offence actually committed and rush to another Court for preventing future offence of the same kind.

13. Mr. Banerjee's contention summarised above is based on the major assumption that sec. 278 of the Act confers jurisdiction on the Criminal Court so as to make it a Court having jurisdiction under the Act. This assumption does not appear to me to be well-founded. The first sub-section of sec. 278 is negative in form and says that no Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence against the Act. This sub-section does not affirmatively purport to confer jurisdiction on any Court. The second sub-section refers to offences declared by the Act to be punishable by fine only and prescribes the manner in which such offences if committed in any of the Presidency towns are to be tried. I do not read the Bombay Full Bench decision in P.D. Shamdasani Vs. Sir H.P. Mody, as laying down the proposition that sec. 278 (2) creates or confers jurisdiction in or upon the Presidency Magistrate as contended by Mr. Banerjee. On the other hand that decision clearly implies that the Presidency Magistrate derives his jurisdiction and powers from the Code of Criminal Procedure but the section has the effect of allowing the Presidency Magistrate to try in a summary manner any offence declared by the Act to be punishable with fine only irrespective of the restrictions of that Code as to the amount of fine. If I were to accede to the contention of Mr. Banerjee that this section gives exclusive jurisdiction to the Presidency Magistrate in respect of offences against the Act which are committed in the Presidency towns and are punishable by fine only then I shall also have to hold that the Act does not give any jurisdiction or power to any Court to punish such offences when committed outside the Presidency towns or to punish offences against the Act wherever committed which are punishable with imprisonment, e.g., under sec. 282. How

will such offences be tried and by which Court and under what authority? We have, for an answer to the questions, to fall back on the Code of Criminal Procedure. Sec. 5 of that Code provides that all offences, under the Penal Code shall be tried according to the provisions of the Code of Criminal Procedure and all offences under any other law shall be tried according to the same provisions subject to any enactment regulating the manner of trial of such offences. Therefore the Court trying an offence under the Penal Code or under any other law, e.g., the Companies Act derives its jurisdiction and powers from this section of the Code of Criminal Procedure. The penal sections of the Companies Act do not expressly mention any particular Court which is to try the offences created by them and, therefore, sec. 29 of the Code of Criminal Procedure comes into play and such offences are to be tried by the Courts by which such offences are shown in the 8th column of the second schedule to be triable. Sec. 278 (2) of the Companies Act only lays down a special manner of trial of offences against the Act committed within the Presidency towns which are punishable by fine only. The provisions of the Code of Criminal Procedure regulating the manner of trial are, by sec. 5 of that Code, expressly made subject to the special manner of trial prescribed by sec. 278 (2). The Presidency Magistrate is a Court having jurisdiction under the Code of Criminal Procedure and in trying an offence declared by the Companies Act to be punishable by fine only the Magistrate, by reason of sec. 5 of that Code, has to adopt the special procedure indicated by sec. 278 (2) of the Companies Act. The truth is that the penal sections of the Companies Act create offences but do not create or confer jurisdiction in or upon any Court and leaves it to the Code of Criminal Procedure to determine which Court has jurisdiction to try those offences and by sec. 278 (1) takes away the jurisdiction of Courts inferior to the Presidency Magistrate or Magistrate of the first class in respect of offences under the Companies Act committed in any of the Presidency towns and by sub-sec. (2) enlarges the powers of the Presidency Magistrate as to the manner of trial for offences which are committed in the Presidency towns and which are declared by that Act to be punishable with fine only. In this view of the matter the Presidency Magistrate adopting the procedure laid down in sec. 278 (2) cannot properly be said to be the Court having jurisdiction under the Companies Act so as to come within the term "the Court" as defined in sec. 2 (5) and further explained and elaborated by sec. 3 of the Companies Act. This being the true position, as I apprehend it to be, the whole of the assumption on which Mr. Banerjee's argument is founded falls to the ground and his argument cannot be sustained. I see no public inconvenience or mischief in the Legislature indicating one Court as the Court to try an offence already committed and another Court to compel compliance with a particular statutory requirement so that a further offence may not be committed. Indeed where the legislature has intended that the same Court which tries a particular offence and passes a sentence should also have the additional power to make any other order it has said so expressly, e.g., in sec. 282. In any event the Court can only ascertain the intention of the Legislature as expressed in the statute by construing the language used therein and giving the particular words the special

meaning assigned to them by the definition section. I see nothing repugnant in that subject or context of any of the penal sections which would exclude the application of the definition of "the Court" to that expression in those sections. In my opinion the words "the Court" in the penal sections we are concerned with in this case means the High Court having jurisdiction in the place at which the registered office of the Company is situate or the notified District Court under the proviso to sec. 3 of the Act and consequently this Court has jurisdiction to entertain this application.

14. Coming to the merits I find that by clause 1 of the summons the applicant prays for certified true copies of various documents, registers and entries set forth in the several sub-cl. (a) to (g) and by clause 2 he claims inspection of those documents, registers and entries. There is no provision in any of the relevant sections of the Act entitling any person to have certified true copies and Mr. Sarkar appearing in support of this application frankly concedes that his client is not entitled to certified copies but will be content with ordinary copies.

15. In sub-cl. (a) the applicant wants copies of balance sheets, profit and loss account, auditors' reports as well as of directors' reports for several years. The directors' report is required to be made out by sec. 131A. The other documents mentioned in that clause are dealt with by sec. 135 and under that section it is only a member who is entitled to copies thereof. As the directors' report is to be attached to the balance sheet it seems it is available to the members only. Copies of the records referred to in sub-cl. (b) is dealt with by sec. 33 and those referred to in sub-cl. (f) by sec. 91C, both of which sections confer rights only on members and not to anybody else. Mr. Banerjee's contention founded on the allegations in the affidavit in opposition is that the applicant is no longer a member of the Company, for his shares have been forfeited and sold in exercise of the Company's lien and his name has been removed from the register of members and the name of Mohonlal has been put upon the register in respect of those shares, Mr. Sarkar, on the other hand, maintains that on a true construction of the relevant Articles, namely, 31, 32 and 33 the Company had and has no lien as claimed or at all and in any case the alleged right of lien was not validly exercised and the alleged forfeiture or sale of those shares was not in purported exercise of power but was in purported assumption of power which did not exist and that in the premises the applicant still continues to be holder of those shares in the eye of the law. The contention is that the story of the alleged lien and the alleged forfeiture or sale has been put up only to defeat the suit filed by the applicant against Choteylal and the claim of lien and the forfeiture and sale are ultra vires, illegal and void. Notwithstanding the persuasive appeal of Mr. Sarkar and the lure of the very interesting arguments bearing on the question of construction of the relevant regulations in the Articles which he has advanced so ably I have come to the conclusion that on an application such as this it would not be right for me, in the facts and circumstances of this case and particularly in view of the pendency of the suit filed by the applicant himself against the Company and others wherein the self same questions have been put in issue, to

express any opinion thereon which may in any way prejudice either party in that suit. A satisfactory decision of the whole dispute involves a decision on questions of fact, e.g., service of notice of lien and the holding of the meeting and the passing of the resolution and the charge of fraud, besides a decision on the question of construction. As a suit is actually pending in which all these matters will be properly and satisfactorily gone into and decided it is only reasonable that I should not, on a summary application, embark on the same enquiry. Rightly or wrongly the Company has purported to forfeit and sell or re-allot the shares originally held by the applicant and his name has been removed from the register of members. It may be that the applicant will succeed in his suit and get his name reinstated in the register and it will then be time enough for him to seek to enforce his rights as a member. For the moment his name is not on the register and, therefore, *prima facie* he is not a member and cannot for the moment claim the rights of a member. I, therefore, decline to make any order in respect of cls. (a), (b) and (f) and confine myself to those documents in which an outsider is interested under secs. 87, 124, 36 and 32, that is to say, to the documents referred to respectively in cls. (c), (d), (e) and (g) of the summons.

16. Learned Counsel for the Company contends that the Petitioner was a director of the Company from 1922 to 1945 and is familiar with all the records. He may get copies of some of the documents from the Registrar of joint Stock Companies. Even if the Petitioner as a member of the public has an abstract right the Court has a discretion implied by the use of the word "may" in the relevant sections and there is no reason why the Court should assist such an unreasonable demand. The relevant sections in their earlier parts give an absolute and unqualified right by using words such as "shall be entitled to a copy" and then impose a penalty for default and then proceed to direct that the Court may compel the Company to comply with the particular requirements. This last provision is clearly intended to effectuate the legal right given in the earlier parts of the sections and I agree with Mr. Sarkar that in the premises the enabling word "may" should be read as a compulsory directive as held in *Julius v. Bishop of Oxford* L. R. 5 A. C. 214 (1880). I further agree with Mr. Sarkar's contention based on the authority of the observations in *Buckley's Company Law*, 11th Edn., p. 215 and the decision in *Reg. v. Wills and Berks Canal Navigation* 29 T. L. R. 922 that if the Petitioner has any right under the Act to get copies or inspection, his motive for having it is irrelevant. The crucial question is: has the Petitioner any right to get copies of the documents referred to in sub-cl. (c), (d), (e) and (g) of clause 1 of the summons.

17. Sec. 87 (3) permits certain documents being those mentioned in sub-cl. (c) of the summons to be inspected by a member free of charge and by any other person on payment of a fee and by sec. 87 (3) the Court may direct an immediate inspection thereof. There is no provision for supplying copies. Under sec. 124 an outsider can only ask for inspection of the register of mortgages being the document specified in sub-cl. (d) and is not entitled to any copy. Sec. 36 permits a stranger not only to inspect the register of members but also to get

a copy as asked for in sub-cl. (e). Annual list and summary is required by sec. 32 to be prepared and kept and under sec. 36 an outsider is entitled to inspection on payment of the requisite fee and also to a copy. Thus I find that the prayers of the applicant as an outsider for copies of the documents specified in sub-cl. (c) and (d) are not maintainable and must be rejected. I make an order as prayed in sub-cl. (e) and (g) subject to the payment of requisite fees before copies are supplied.

18. The applicant, however, has asked for inspection in clause 2 of the summons to which he is, even as a stranger, entitled under" each of the sections. I, therefore, make an order directing the Company to give immediate inspection of the documents and entries referred to in sub-cl. (c), (d), (e) and (g) on payment of requisite fees if any. For reasons stated in *Vakharia v. The Supreme General Film Exchange Co., Ltd.* [1947] 50 Bom. L. R. 140 and the cases cited therein and particularly in view of the fact that the documents are open to the inspection or stranger allow the applicant to, take inspection himself or by an agent. As a stranger the agent will be entitled to inspection in his own right and, therefore, there cannot to objection to an agent under these sections. It is true that the applicant asked for copies to which he is not entitled but he also asked for inspection and it is fairly clear on the correspondence to which I have referred that the applicant has been forced to come to Court. No extra costs have been incurred by reason of the applicant including a claim for copies. In these circumstances I think it will be right to allow him costs of this application as of a motion.

Certified for Counsel.