
(1951) 01 MAD CK 0015
In the Madras High Court
Case No : O.S. Appeal No. 118 of 1950

Mrs. A. Ananthalakshmi Ammal	Vs	APPELLANT
Tiffin's Barytes, Asbestos and Paints Limited		RESPONDENT

Date of Decision : 11-01-1951

Acts Referred:

Companies Act, 1913 — Section 76, 79(3)

Citation : AIR 1952 Mad 60 : (1951) 21 CompCas 294 : (1951) 64 LW 1091 : (1951) 2 MLJ 586

Hon'ble Judges : Rajamannar, C.J;Panchapakesa Aiyar, J

Bench : Division Bench

Advocate : G. Vasantha Pai, for the Appellant; C.A. Vaidhyalingam and O. Radhakrishnan, for the Respondent

Judgement

Rajamannar, C.J.—This is an appeal against an order of Krishnaswami Nayudu, J., directing the directors of Tiffin's Barytes Asbestos &

paints Limited., to convene and hold the annual general meeting of the company on Sunday the 28th January 1951 after giving due notice to the

shareholders as provided under the articles to consider certain subjects. This order was made on an application filed by the appellant who is a

shareholder on the allegation that the last annual general meeting of the company had been held on 30th December 1948 and there had been no

annual meeting for over 15 months. There is no appeal by the company or the directors against the order directing the holding of the meeting. But

the share-holder who applied to the Court and who Is the appellant before us seeks in this appeal the appointment of an independent person to

preside over the meeting as Chairman. Such a request was made to the learned Judge, but he thought that no case had been made out for

appointing an independent Chairman.

2. It is true that, under Article 35 , the Chairman of the Board of Directors shall be entitled to take the Chair, under Article 64 , the Directors may

make regulations as to the election of the Chairman. It was conceded before us by learned counsel appearing for the company that no regulations

had been made as contemplated by this Article. But he mentioned that at a meeting of the Directors on 12th August 1950 one Mr. Veeramani was

elected Chairman. It is obvious that it cannot be said in this case that there is a validly elected Chairman of the Board of Directors whose right to

that office is not challenged by any one. It is not necessary for us to decide whether he could lawfully function as Chairman. It is sufficient to say

that there is room for dispute. There is also another objection into which we have not gone on the ground that at the time of the alleged election,

there were only few directors functioning; that is to say, less than the minimum number required to make a "quorum." Be that as it may, it is

obvious that it cannot be said that there is a permanent chairman chosen in the normal course of the business of the company.

3. Under an order of this Court there was an extraordinary meeting of the general body on 23rd October 1950. It is represented to us that the

report of the Advocate who was appointed to conduct the meeting is the subject-matter of certain objections by the respondent. We shall

therefore refrain from saying anything as to the correctness or otherwise of any of his decisions. But it is clear that the person who is put forward

by the company as the permanent Chairman rejected all the 73 proxies submitted by one Mr. E. R. Krishnan on the ground that they did not

conform to the form under regulation No. 66 of the Act. There is besides this enough on the record to convince us that there are factions among

the share-holders of the company. Though the learned judge thought that at the meeting only formal subjects would come up for consideration, we

think that the election of directors cannot be said to be such a formal or non-controversial subject as would ordinarily be the case in respect of a

company whose affairs are running smoothly. As this is one of the important items of business to be transacted at that meeting, we consider it

desirable that the meeting should be presided over by an independent chairman appointed by the Court. Mr. Radhakrishnan , learned counsel for

the respondent, objected to the appointment of a chairman by the Court on the ground that thereby the Court would be interfering with the internal

management of the Company which it had no jurisdiction to do. But we find that Section 79 (3) itself contemplates the giving of directions by the

Court as to the manner in which a meeting of the company can be called, held and conducted. Section 76 expressly confers on the Court the

power to call or direct the calling of a general meeting of the company. If the Court can call for a meeting, we presume the Court can also appoint

a person to conduct that meeting, who will be the chairman to preside over it.

4. We, therefore, modify the order of the learned Judge and direct that the meeting may be conducted by the Advocate to be appointed by us in

this order who will preside at the meeting as its chairman. He shall also scrutinise the proxies which had been duly deposited in time under Article

42 of the Articles of Association.

5. There was a prior meeting of the general body of this very company in respect of which this Court appointed Mr. K. sanjeevi Naidu as Chair

man, We think that the same Advocate may be appointed to preside at the meeting to be held on the 28th instant. There will be no order as to

costs.