
(2017) 05 KAR CK 0015
In the Karnataka High Court
Case No : 48506 of 2016

M/s. Alliance University

APPELLANT

Vs

Sri. Sudhir & Ors.

RESPONDENT

Date of Decision : 10-05-2017

Acts Referred:

[Code of Civil Procedure, 1908](#), [Order 1 Rule 10](#), [Order 6 Rule 17](#) -
[Companies Act, 1956](#), [Section 25](#) - (1) In these articles-

Citation : (2017) 05 KAR CK 0015

Hon'ble Judges : Raghvendra S. Chauhan

Bench : SINGLE BENCH

Advocate : Sajan Poovayya, D.N. Nanjunda Reddy, Jayakumar S. Patil, Shyam Sundar, V. Lakshminarayana, Vivek S. Reddy, Ashok Haranahalli, Shaik Ismail Zabiulla, K.N. Subba Reddy, A.P. Pulakeshi, Mudit Kundlia

Judgement

1. The petitioner, M/s. Alliance University has challenged the part of the order dated 10.08.2016, passed by the XXVII Additional City Civil Judge, Bengaluru City (CCH-9), whereby the learned Civil Judge has dismissed the petitioner's application under Order 1, Rule 10 r/w Order VI, Rule 17 of CPC.

2. The impugned order is a composite order whereby the learned Civil Judge has also dealt with the petitioner's application under Order XXXIX, Rules 1 and 2 CPC, and with the application filed by the respondents under Order XXXIX, Rules 1 and 2 CPC, along with their counter claim. By the impugned order, while the learned Civil Judge dismissed the temporary injunction application filed by the petitioner, the learned Civil Judge allowed the application filed by the respondents. The petitioner has already challenged these other two parts of the impugned order by filing two different MFA's, namely MFA No. 6011/2016, and MFA No. 6012/2016, before this Court. Both these MFA's have been decided by this court by order dated 10.05.2017. Thus, the present order deals with the specific part of the impugned order mentioned hereinabove.

3. This case has a long and a chequered history which, out of sheer necessity, needs to be narrated. For, the events are relevant in order to understand the myriad contentions and counter-contentions subsequently raised by the learned Senior Counsel for the parties.

4. Mr. Madhukar Angur, the alleged Chancellor of the petitioner University, and Mr. Sudhir Angur, the respondent No. 1, are real brothers. Mrs. Shaila Chebbi, respondent No. 2, and Mrs. Mala Gouda, respondent No. 3, are their real sisters. Mr. Abhay Chebbi, respondent No. 4, is son of Mrs. Shaila Chebbi, and thus, the nephew of Mr. Madhukar Angur. Mr. Prakash Siddappa, respondent No. 5, on the other hand, is an ex-employee of the petitioner University. The bone of contention in the present case is the management of the Alliance University. The contest is between Mr. Madhukar Angur, who claims to be the Chancellor of the University, appointed for life, and Mr. Sudhir Angur who equally claims to be the lawfully appointed Chancellor of the University. The other respondents, named above, claim to be the Directors of the Alliance Business School Pvt. Ltd, the Sponsoring Body of the petitioner University. They are supporting the case of Mr. Sudhir Angur.

5. Way back in 1997, Mr. Sudhir Angur had established the Sainath Education Trust. Mr. Sudhir Angur was the Managing Trustee. The Managing Trustees operated the Alliance Business Academy. On 16-6-2005, the Alliance Business School, ("the Company", for short), a private limited company, was registered under the Company Act, 1956. The founding shareholders of the said Company were the two sisters of Mr. Sudhir Angur, namely Mrs. Mala Gouda, who held 5000 shares, and Mrs. Shaila Chebbi, who also held another 5000 shares. Thus, the Company began with 10,000 shares.

6. Around 2007, Mr. Madhukar Angur was teaching at the University of Michigan in the United States of America. On 25-4-2007, he was inducted as a Director of the Company. On 27-11-2008, he was appointed as the Managing Director of the Company. Thus, on 20-5-2009, the Board of Directors consisted of Mr. Madhukar Angur, as the M.D., and Mrs. Mala Gouda and Mrs. Shaila Chebbi as the Directors. During the period of 2005 to 2009, the shares of the Company increased exponentially. On 20-5-2009, the Board allotted 2,40,000 shares in favour of Mr. Madhukar Angur. Subsequently, on 16-10-2009, Mrs. Mala Gouda transferred 2500 shares of hers to Mr. Madhukar Angur. On the same day, she also transferred her remaining 2500 shares to Mr. Sachindananda Machineni. He was also inducted as a Director of the Company. Likewise, on 16-10-2009, Mrs. Shaila Chebbi transferred her 5000 shares to Mr. Madhukar Angur. On 16-10-2009 itself, both Mrs. Mala Gouda and Mrs. Shaila Chebbi resigned from the Board of Directors of the Company.

7. But on 6-4-2010, Mr. Madhukar Angur transferred 38% of his shares to his real sister, Mrs. Mala Gouda, and 5% of his shares to her husband, Mr. Srinivas Gouda, his brother-in-law.

8. On 4-6-2010, the Company, the ABS Pvt. Ltd, was converted into a non-profit Company; it was brought under Section 25 of the Company Act, 1956.

9. On 28-7-2010, the Alliance University Act, 2010 ("the Act", for short) was published in the Official gazette. The said Act came into force on 2-8-2010. Under the Act, the Company was declared as the "Sponsoring Body". According to Section 15 (2) of the Act, the Managing Director of the Sponsoring Body is to be appointed as the First Chancellor of the University. The appointment shall be "for life". Since at the relevant time, Mr. Madhukar Angur was the MD of the Company, he was appointed as the First Chancellor of the University; the appointment was "for life". On 16-9-2010, the Government of Karnataka approved the establishment of a private university in the name and style of "Alliance University", at Anekal.

10. According to the Annual Returns of the Company, for the years 2011-12 and 2012-13, Mrs. Mala Gouda and Mr. Srinivas Gouda were shown to have the shares to the extent of 43 %. However, when the Annual Returns of the Company were published in 2013-14, Mrs. Mala Gouda allegedly learnt that her shares and the shares of her husband, Mr. Srinivas Gouda were transferred to Mrs. Prinyanka B. S., the wife of Mr. Madhukar Angur. After the year 2013, things get murky within the Company. The affairs of the Company will eventually affect the functioning of the Alliance University as well.

11. On 30-1-2015, Mr. Madhukar Angur, as the MD, separately wrote to Mr. Sachidananda Rao Machineni, Mrs. Priyanka B. S., Mr. Krishna Mohan Ramineni (who was one of the Directors inducted on 5-3-2009), with regard to offering his shares. On 16-2-2015, a notice was also issued for calling a meeting of the Board of Directors of the Company on 4-3-2015 and 5-3-2015. In the meeting held on 4-3-2015, Mr. Abhay Govind Chebbi, respondent No. 4 and Mr. Prakash Siddappa, respondent No. 5, were appointed as Additional Director of the Company.

12. After the meeting of 4-3-2015, the facts of the case become unclear as both the sides, the petitioner and the respondents, have different versions of the events. According to the petitioner University, no meeting was called for on 5-3-2015, and no meeting took place on that date. According to the petitioner, henceforth, the facts alleged by the respondents are full of falsehood and fraud.

13. But according to the respondents, on 5-3-2015, Mr. Madhukar Angur resigned from the office of Managing Director, and from the Board of Directors of the Company. Further, Mr. Madhukar Angur allegedly offered to transfer 1,22,500 shares of his to Mrs. Mala Gouda, respondent No. 3, and to Mr. Abhay Govind Chebbi, respondent No. 4. Consequently, while 58, 800 equity shares were transferred to Mrs. Mala Gouda, 63,700 equity shares were transferred to Mr. Abay Govind Chebbi. Similarly, Mrs. Priyanka B. S. also informed the Board of her intention to transfer her 1,70,500 shares to Mr. Prakash Siddappa, respondent No. 5 and to Mr. Shivappa Mantur. Thus, according to the respondents, 56,000

equity shares were transferred to Mr. Prakash Siddapa and 51,500 equity shares to Mr. Shivappa Mantur. Moreover, Mr. Krishna Mohan Ramineni also resigned from the office of Director of the Company. Further, according to the respondents, on 5-3-2015, the Board of the Company accepted the resignations of Mr. Madhukar Angur and of Mr. Krishna Mohan Ramineni.

14. However, as Mr. Madhukar Angur was of the opinion that the alleged transfer of his shares and his alleged resignation were staged managed by the respondents, on 6-3-2015, he lodged a criminal complaint against some of the respondents. In the criminal complaint, he claimed that he was forced to resign from the Board, and was equally forced to transfer the shares to Mrs. Mala Gouda and Mr. Abay Govind Chebbi. However, after a thorough investigation, the Police has filed a negative Final Report and closed the case.

15. The respondents further claim that in April 2015, Mrs. Priyanka also declared her intention to resign from the Board of the ABS Company. Her resignation was accepted on 11-4-2015. On the same date, Mrs. Shaila Chebbi, respondent No. 2, and Mrs. Mala Gouda, respondent No. 3, were appointed as the Additional Director of the Company.

16. Moreover, according to the respondents, the information with regard to Directors of the Company, and with regard to the shares of the Company were uploaded to the Registrar of Company ("the ROC", for short) through e-filing on 13-4-2015. The e-filing was done under the digital signature of Mr. Madhukar Angur, Mr. Krishna Mohan Ramineni and Mr. Abhay Chebbi. However, as Mr. Madhukar Angur, and Mr. Krishna Mohan Ramineni were aggrieved by the misuse of their digital signature, they filed a complaint with the ROC with regard to the illegal uploading of such documents. They also lodged FIRs against the respondents for illegally using their digital signature for uploading the documents. The FIRs were registered as Crime Nos. 97/2015, 104/2015 and 105/2015. However, the said FIRs, were quashed qua Mr. Sudhir Angur, Mrs. Shaila Chebbi, Mrs Mala Gouda, Mr. Abhay Chebbi and Mr. Prakash Budoor, by this court, by its order dated 4-10-2016, in Writ Petition No. 19462-466/2016.

17. With regard to the uploading on 13-4-2015, the ROC issued a notice to the Company and to Mr. Abhay Chebbi, Mrs. Shaila Chebbi, Mrs. Mala Gouda and Mr. Prakash Sidappa, on 7-5-2015, as to why the uploading done by them on 13-4-2015 should not be invalidated and why the constitution of the Board of Directors should not be restored? By letters dated 2-6-2015, and 3-6-2015, the above named persons gave their consent for invalidating the DIR-12 forms, namely the information which was uploaded on 13-4-2015. By order dated 8-6-2015 the ROC informed the Company that the DIR-12 Forms have been marked as "invalid". Further, on 9-6-2015, the Ministry of Corporate Affairs informed Mr. Abhay Chebbi, respondent No. 4, that the filing pertaining to the uploading done on 13-4-2015 is "defective", and rectification of the same should be done within a period of thirty days.

18. According to the respondents, on 30-9-2015, Mrs. Shaila Chebbi, respondent No. 2, and Mr. Abhay Chebbi, the respondent No. 4, were elevated from the post of Additional Directors to the post of Director of the Company.

19. On 5-2-2016, Mr. Madhukar Angur was arrested in an alleged case of rape purportedly committed on a mentally challenged woman. According to the respondents, on 11-2-2016, the Board of Directors of the Company re-accepted the resignation of Mr. Madhukar Angur and Mrs. Priyanka B. S.

20. On 23-2-2016, Mr. Krishna Mohan Rameineni uploaded the DIR-12 Forms about the position of the Directors, and about the position of the Shares of the Company.

21. On 4-3-2016, an employee of the Company lodged another criminal complaint against Mr. Madhukar Angur wherein she claims that she has been raped by him. Presently, according to both the parties before this court, the investigation is still continuing in the said case.

22. On 14-3-2016, Mr. Madhukar Angur lodged a complaint with the ROC requesting him to initiate a criminal case against Mr. Sudhir Angur, Mr. Abhay Chebbi, Mrs. Shaila Chebbi, Mrs. Mala Gouda, and Mr. Prakash Budur for the offences of cheating, falsification of documents, forgery, impersonation, using forged documents as genuine and for tampering with electronic records. However, so far, the ROC has not initiated any action against the aforementioned persons.

23. Further, according to the respondents, on 7-4-2016, the Company, as the Sponsoring Body of the Alliance University, removed Mr. Madhukar Angur from the post of Chancellor. Although this fact is being hotly contested by the petitioner before this court, but Mr. Madhukar Angur has not challenged the resolution of the Company ousting him from the said post before any court, so far.

24. On 11-4-2016, one Ms. Shreya Sanjeev filed a civil suit against the University, the Company, Mr. Madhukar Agngur and others, namely O. S. No. 2911/ 2016 wherein she claimed that she had purchased shares from Mr. Shivappa Mantur. She has sought a declaration from the civil court that her shareholding is valid. By order dated 30-8-2016, the learned Civil Court has restrained Mr. Madhukar Angur, Mrs. Priyanka B. S. and others from interfering with the management of the Company and the University.

25. The respondents further claim that Mr. Sudhir Angur, respondent No. 1, was appointed as an Additional Director of the Company on 15-4-2016. Subsequently, on 16-4-2016, he was appointed as the Chancellor of the University. On 28-5-2016, he was appointed as the Managing Director of the Company. Hence, according to respondents, presently, Mr. Sudhir Angur, the respondent No. 1, is the MD of the Company and the Chancellor of the University.

26. Since the University was aggrieved by the interference of Mr. Sudhir Angur

and of others in its affairs of the University, since Mr. Madhukar Angur claimed to be the Chancellor for life, the University filed a civil suit through Mr. Madhukar Angur, the Chancellor, for injunction against Mr. Sudhir Angur and others, namely O. S. No. 3006/2016 before the learned Civil Judge.

27. During the course of the proceedings, the petitioner filed an application under Order 1, Rule 10 r/w Order VI, Rule 17 of CPC, for changing the cause title and for projecting Mr. Madhukar Angur as the plaintiff instead of the University, and for amending the plaint. However, by order dated 10.08.2016, the application filed by the petitioner has been dismissed. Hence, the present petition before this Court.

28. Mr. Vivek Reddy, the learned Senior Counsel for the petitioner, has pleaded that Mr. Madhukar Angur as the Chancellor, appointed for life, has ample power for filing a suit in order to protect the interest of the University. Therefore, the learned Civil Judge was not justified in rejecting the petitioner's application for amending the cause title and the plaint.

29. On the other hand, Mr. Sajan Poovayya, the learned Senior Counsel for the respondents, submits that since the relief sought in the plaint are for the benefit of the University, since the University can sue in its own right, since it has filed the present suit through its alleged Chancellor, therefore, Mr. Madhukar Angur cannot be permitted to come in his personal/official capacity as the Chancellor and to project himself as the plaintiff. To permit Mr. Madhukar Angur to appear as the plaintiff would change the very nature of the suit as the facts narrated and the relief sought relate to the University itself.

30. Heard the learned counsel for the parties, and perused the impugned order.

31. Section 4 of the Act deals with establishment of the University. The relevant portion of the Section, dealing with the University "suing or being sued", is as under: Section 4 (4) of the Act: The Chancellor, the Vice-Chancellor, members of the board of Governors, members of the Board of Management and the Academic Council for the time being holding office as such in the University so established, shall constitute a body corporate and can sue and be sued in the name of the University. Section 4 (6) of the Act: In all suits and other legal proceedings by or against the University, the pleading shall be signed and verified by, and all processes in such suits and proceedings shall be issued to and be served on the Registrar.

32. A bare perusal of the said provisions clearly leads to certain conclusions: firstly, Section 4 (4) of the Act merely prescribes the constituent members of the body corporate. Secondly, it neither bestows the right to sue, nor imposes the liability to be sued on the constituent members. Thirdly, the right to sue, and the liability of being sued is specifically bestowed on the University, which is a body corporate. Fourthly, according to Section 4 (6) of the Act, all the suits by the University shall be signed and verified by the Registrar. Therefore, reading both the provisions co-jointly makes it abundantly clear that a suit can be filed only in

the name of the University, the suit shall be signed and verified by the Registrar. Thus, a suit filed by the University can be filed only through the Registrar and not through the constituent members, including the Chancellor.

33. To interpret Section 4 (4) of the Act as granting the power to sue on behalf of the University to the Chancellor is to misinterpret the said provision. For such an interpretation would make Section 4(6) of the Act otiose. An interpretation which renders another provision of the Act otiose cannot be accepted. Moreover, Section 15 (5) of the Act bestows different powers on the Chancellor. But the power to sue on behalf of the University is conspicuously missing in Section 15 (5) of the Act. Thus, Mr. Vivek Reddy, the learned Senior Counsel, is unjustified in pleading that the suit can be filed by Mr. Madhukar Angur as the Chancellor of the University.

34. Moreover, a bare perusal of the plaint clearly show that the relevant facts mentioned in the plaint, and the relief sought from the learned trial court relates to the Alliance University. Therefore, it is for the Alliance University to file the suit. In case, Mr. Madhukar Angur is permitted to project himself as the plaintiff, it will change the colour and character of the suit. It is, indeed, trite to state that an amendment which would entail changing the nature of the suit cannot be permitted. Therefore, the learned Civil Judge was well justified in rejecting the application filed by the petitioner under Order 1, Rule 10 r/w Order VI, Rule 17 of CPC.

35. For the reasons stated above, this court does not find any illegality, or perversity in part of the order dated 10.08.2016, whereby the learned Civil Judge has rejected the petitioner's application Order 1, Rule 10 r/w Order VI, Rule 17 of CPC. Therefore, this writ petition is devoid of any merit. It is, hereby, dismissed. No order as to costs.