

(1988) 04 KL CK 0007
In the High Court Of Kerala
Case No : M.F.A. No. 534 of 1984

P.V. Chandran

APPELLANT

Vs

Malabar and Pioneer Hosiery P. Ltd. and Another

RESPONDENT

Date of Decision : 08-04-1988

Acts Referred:

Companies Act, 1956 — Section 108, 155

Citation : (1990) 69 CompCas 164 : (1988) 2 ILR (Ker) 552

Hon'ble Judges : V. Sivaraman Nair, J;P.K. Shamsuddin, J

Bench : Division Bench

Advocate : P.N.K. Achan, for the Appellant; C.M. Devan, for the Respondent

Final Decision : Dismissed

Judgement

Sivaraman Nair, J.—This is an appeal filed u/s 155(4) of the Companies Act, 1956, by the applicant in C, P, No. 4 of 1983 (P. V. Chandran v. Mala bar and Pioneer Hosiery P. Ltd. [1985 57 Comp Cas 570) against the judgment of the learned company Judge dismissing his application which was filed u/s 155(2) of the Act.

2. The first respondent is a private limited company registered under the Companies Act, 1956. It has an authorised share capital of Rs. 5,00,000, divided into 5,000 shares of Rs. 100 each. 3,000 shares have been subscribed and paid up. The second respondent was a shareholder having 705 shares. The controversy which led to this appeal involves the transfer of those shares. The relevant facts are as follows :

The appellant purchased those 705 shares from the second respondent. By exhibit A-2 dated November 10, 1983, the second respondent informed the first respondent about the sale of her shares to the appellant. She requested that the transfer of shares in the name of the appellant might be registered. In exhibit A-3, dated December 1, 1981, the first respondent-company rejected the said request relying on Article 33 of the articles of association of the company. It was

thereafter that the second respondent is alleged to have written exhibit A-4, dated February 14, 1982, to the first respondent expressing her desire to dispose of her shares in the company at the price of Rs. 100 fixed by the company to a member or members of the company. Had this letter been received by the company, it would have been in terms of Clause 35 of, the articles of association ; and if the company was not able, within three months thereof, to find a member of the company to purchase the shares at the designated price, it would have been obliged to permit the second respondent to sell her shares even to an outsider in terms of Clause 39 thereof. The second respondent claims to have written exhibit A-13, letter dated July 29, 1982, informing the latter that she had sold the shares to the appellant after due compliance with Clause 39 of the articles of association, allegedly, since she did not receive any response to her letter, exhibit A-4, within the specified period. In exhibit A-6 letter dated November 15, 1982, the second respondent again wrote to the first respondent to the effect that she had transferred her shares to the appellant and had handed over to him the share transfer forms duly filled in. On November 19, 1982, she wrote exhibit A-7 letter. That letter was delivered to the company along with the share transfer forms and was duly acknowledged in exhibit A-8. The company did not comply with the request of the appellant and the second respondent. In exhibit A-9 letter dated December 24, 1982, the first respondent-company informed the applicant that his application for transfer of shares was rejected. No reasons were stated for rejecting the application. The appellant, therefore, filed an application u/s 155(2) of the Companies Act, seeking rectification of the share register. He contended that Clause 40 of the articles of association enabling rejection of the application for registration of transfer did not apply to the instant case. He, therefore, sought a direction for rectification of the register of shareholders of the company by substituting his name as the holder of 705 shares described in the annexure to the petition in the place of the second respondent

3. The first respondent filed a detailed counter-affidavit alleging that exhibit A-2 communication dated November 10, 1981, was rejected by resolution of the board of directors of the company in view of Clause 33 of the articles of association in exhibit A-3 letter (same as exhibit B-2). Exhibit A-4 dated February 14, 1982, (same as exhibit B-3) was received by the company only on September 24, 1982. The members of the company were informed by letter dated October 7, 1982, of the offer of the second respondent to sell her shares at the rate of Rs. 100. Two members expressed their willingness to purchase the shares. One of them was Shri Premkumar. On the allegation that the signature in his offer was different from his other signatures on its records, the company requested Shri Premkumar in its letter dated November 7, 1982, to confirm his offer. In exhibit A-5 letter, the second respondent was informed that one shareholder was interested in purchasing the shares. Exhibit A-6 dated November 15, 1982, and exhibit A-7 dated November 19, 1982, were received by the company from the second respondent requesting for transfer of her

shares in the name of the appellant. At its meeting held on February 18, 1982, the company resolved to reject" the transfer application and the same was communicated to the appellant and the second respondent in exhibit A-9 (same as exhibit B-8). The company contended that the applicant had not sent the share certificates along with exhibits A-6 and A-7. Nor did he remit Rs. 2 for registration of transfer as required by Clause 41 of the articles of association. Those requirements being mandatory u/s 108 of the Companies Act, read with Clause 41 of the articles of association, the applications were liable to be rejected. Clause 40 of the articles of association conferred an unfettered discretion on the company to reject any application for transfer without stating any reason at all. The company took up the position that, in an application for rectification of the register of shareholders, this court could not interfere with the discretion exercised by the"Company in terms of the articles of association, nor could this court compel the company to disclose the reasons for rejection of the application. The company maintained that it had not received any letter dated February 14, 1982, or exhibit A-13 reminder alleged to have been sent on July 29, 1982. The company also urged that the impugned decisions were taken in good faith considering all material facts, and the interests of the company as also its shareholders.

4. The appellant examined himself as PW-1 and produced exhibits A-1 to A-13. The managing director of the company was examined as RW-1. He produced exhibits B-1 to B-20. The learned company judge referred to Clauses 4, 33 to 36 and 39 to 41 of the articles of association of the company and found that the company, being a private limited company, was a closed corporation and the transfer of shares of such a corporation was subject to the restrictions contained in the contract of incorporation, viz., the articles of association. The learned company judge also took the view that unless it was proved that the directors exercised the power to reject the applications for transfer arbitrarily, or, in other words, unless it be proved that they were acting oppressively, capriciously or corruptly, or in some mala fide manner, the courts have no jurisdiction to probe into the matter further. Reliance was placed on the decisions in *Mathew Michael v. Teekoy Rubbers (India) Ltd.* [1983] 54 Comp Cas 88 and *Balwant Transport Co. v. Y. H. Deshpande*, AIR 1956 Nag 20. The learned company judge also held that the conditions imposed and the formalities prescribed in the articles of association of the company for transfer of shares read with Section 108 of the Companies Act being mandatory, and those formalities not having been fully complied with, the company was fully justified in rejecting the application for transfer of shares. For this latter proposition, reliance was placed on the decision of the Supreme Court in *Mannalal Khetan v. Kedar Nath Khetan* [1977] 47 Comp Cas 185. The learned company judge also reviewed the evidence and found that the appellant had not succeeded in making out that the company exercised its discretion to reject the application for transfer without stating reasons in an oppressive, capricious, whimsical or arbitrary manner, or that the exercise of its powers was vitiated by mala fides. In that view, he rejected the application for

rectification of the register of shareholders of the company. The appellant assails that decision.

5. Shri P. N. K. Achan, counsel appearing for the appellant submitted that the findings of the learned company judge on both the points are wrong and unsustainable. It is his submission that the proposition that the company has unlimited discretion to reject any application for transfer of shares without stating any reason at all is unsustainable in view of the decision of this court in *South Indian Bank Ltd. v. Joseph Michael* [1978] 48 Comp Cas 368. He also relied heavily on the decisions in *Bajaj Auto Ltd. v. N. K. Firodia* [1971] 41 Comp Cas 1 and *Harinagar Sugar Mills Ltd. v. Shyam Sunder Jhunjhunwala* [1961] 31 Comp Cas 387. Counsel submitted that the decision in *Teekoy Rubbers*" case [1983] 54 Comp Cas 88 did not apply to the facts of the present case and was wrongly relied on by the company judge.

6. Dealing with the proposition that non-compliance with the formalities provided in the articles of association and Section 108 of the Companies Act were fatal and justified the rejection of the application, counsel submitted that the position is open to doubt. He submitted further that the facts sufficiently disclosed that the second respondent had offered to sell her shares to any other member of the company at a price reasonably fixed by the company and the disability of the company to find a purchaser could not have resulted in refusal of her right to transfer her shares. The company ought to have allowed the transfer in terms of Clause 30 of the articles of association. He contended further, that there was no occasion for the company not to approve of the appellant who was an established businessman of repute at Calicut, and the evidence of RW-1 did not disclose any circumstance adverse to the eligibility of the appellant to be a member of the company.

7. These arguments were strongly refuted by Shri C. M. Devan, counsel for the respondents; He submitted that the principles laid down by the company judge in *Teekoy Rubbers*" Case [1983] 54 Comp Cas 88 has been affirmed by a Division Bench of this court in MFA No. 290 of 1981 [1990] 69 Comp Cas 145, etc., and that governs the field as far as this court is concerned in the matter of discretion of the board of directors of the company to reject any application for transfer without stating any reason at all. He submitted further that the position must be far greater in favour of the private limited company like the present one, because a private limited company is a closed corporation and the board of directors have a larger discretion and greater leeway in determining as to who shall be its constituents. He sought to rely on the observations of the Supreme Court in *Harinagar Sugar Mills*" case [1961] 31 Comp Cas 387 and *Bajaj Auto*"s case [1971] 41 Comp Cas 1 in support of the proposition that unless the unsuccessful applicant for transfer of shares makes out that the company exercised its wide power of discretion in the matter of enrolment of members, registration of transfers, etc., in an oppressive, capricious or mala fide manner, or against the interests of the company, or the shareholders, or the general public, the court

shall not ordinarily interfere with its internal administration. He relied very strongly on the decision of the Supreme Court in *Mannalal Khetan v. Kedar Nath Khetan* [1977] 47 Comp Cas 185 to the effect that the negative mandate contained in Section 108 of the Companies Act, that "the company shall not register", was obligatory and mandatory, and non-compliance with the procedural requirements of the articles of association and the Companies Act was rightly held to be fatal to the registrability of the transfer of shares. He also relied on *Shri Gulabrai Kalidas Naik v. Shri Laxmidas Lallubhai Patel of Baroda* [1978] 48 Comp Cas 438 (Guj). Shri Devan urged that the dispute relating to the title to shares cannot be determined in proceedings u/s 155 of the Companies Act.

8. The learned single judge has rested his decision on the first point mainly on *Teekoy Rubbers*" case [1983] 54 Comp Cas 88.. Our learned brother M. P. Menon J. had, in that decision, held; on a review of the English and Indian authorities and with specific reference to *Gulabrai Kalidas Naik* [1978] 48 Comp Cas 438 (Guj), *Harinagar Sugar Mills*" [1961] 31 Camp Cas 387 (SC), *Bajaj Auto* [1971] 41 Comp Cas 1 (SC) and *South Indian Bank Ltd. Vs. Joseph Michael*, that in view of Clause 24 of the articles of association of that company/which exactly corresponds to Clause 41 of exhibit A-1, the discretion of the directors to reject applications for transfer of shares without giving reasons could not be held to be an arbitrary exercise, unless the applicant showed positively that the directors had acted corruptly, capriciously, arbitrarily, oppressively or mala fide, A Division Bench consisting of one of us, (Sivaraman Nair J.) had occasion to consider the same question in an appeal (see [1990] 69 Comp Gas 145) from that decision. After a detailed reference to decided cases, the Division Bench affirmed the decision in *Teekoy Rubbers* [1983] 54 Comp Cas 88 (Rer) and held (at page 157 of 69 Comp Cas) :

"a closer scrutiny by the court could be attracted only if it was positively proved that there had been no exercise of discretion but only an exercise of a whim or caprice, or the decision of the directors was oppressive, capricious, or mala fide or not in the interests of the company at all."

9. We do not find any circumstance as pleaded, proved or argued in this case which should persuade us to take a different view in this case on the scope and amplitude of the discretion of the company to refuse to register a transfer of shares without disclosing reasons. We are, therefore, inclined to affirm the finding of the learned company judge on the point of law that the court has only very limited jurisdiction u/s 155(2) or (4) of the Companies Act to interfere with the discretion exercised by the board of directors to reject an application for transfer without stating any reason at all. If the board of directors specified reasons for rejecting the application for registration of transfer of shares notwithstanding their right not to do so, such reasons may be open to scrutiny. In such an event, the court may scrutinise the reasons and interfere with the decision of the board of directors as happened in *South Indian Bank Ltd. Vs.*

Joseph Michael, The only exception to this rule, as we understand it from decided cases, is when the applicant proves, by positive evidence of an affirmative character, that the board of directors exercised the discretion corruptly or oppressively or capriciously or arbitrarily or in bad faith, or that such act was against the interests of the company or its shareholders or the general public. We find that the appellant was not able to discharge this rather heavy burden. True it is that the burden is onerous, but it shall be so if we accept the basic postulate that a corporation is entitled ordinarily to order its affairs in as best a manner as its constituents deem fit. This is more particularly so in this case, since the company concerned is a private limited company.

10. Section 108 of the Companies, Act deals with transfer of shares and debentures. That section reads :

"108. Transfer not to be registered except on production of instrument of transfer. --- (1) A company shall not register a transfer of shares in, or debentures of the company, unless a proper instrument of transfer duly stamped and executed by or on behalf of the transferor and by or on behalf of the transferee and specifying the name, address and occupation, if any, of the transferee, has been delivered to the company along with the certificate relating to the shares or debentures, or if no such certificate is in existence, along with the letter of allotment of the shares or debentures.:

Provided that where, on an application in writing made to the company by the transferee and bearing the stamp required for an instrument of transfer, it is proved to the satisfaction of .the board of directors that the instrument of transfer signed by or on behalf of the transferor and by or on behalf of the transferee has been lost, the company may register the transfer on such terms as to indemnity as the board may think fit:

Provided further that nothing in this section shall prejudice any power of the company to register as shareholder or debenture-holder any person to whom the right to any shares in, or debentures of, the company has been transmitted by operation of law.

(1A) Every instrument of transfer of shares shall be in such form as may be prescribed, and -

(a) every such form shall, before it is signed by or on behalf of the transferor and before any entry is made therein, be presented to the prescribed authority, being a person already in the service of the Government, who shall stamp or otherwise endorse thereon the date on which it is so presented, and

(b) every instrument of transfer in the prescribed form with the date "of such presentation stamped or otherwise endorsed thereon shall, after it is executed by or on behalf of the transferor and the transferee and completed in all other respects, be delivered to the company,--

(i) in the case of shares dealt in or quoted on a recognised stock exchange, at

any time before the date on which the register of members is closed, in accordance with law, for the first time after the date of the presentation of the prescribed form to the prescribed authority under Clause (a) or within two months from the date of such presentation, whichever is later ;

(ii) in any other case, within two months from the date of such presentation."

11. The appellant has no case that this provision does not apply to the facts of the present case. Clauses 33 to 40 of exhibit A-1 articles of association of the company deal with transfer of shares and provide that no shareholder shall transfer, mortgage or otherwise create any interest in the share of the company without the consent of the majority of the directors, and only in favour of one or more members of the company, that no share shall be transferred except to a member if one is willing, that the transferor shall give notice of his intention to sell the share, that if the board of directors, within three months after receipt of such notice, finds a person to purchase the share at the fair market value, the transferor shall sell his shares to such member and that if the board of directors do not find a suitable purchaser among the members, it shall be open for the member, after the period above mentioned, to transfer the shares to any person at any price and the company shall enter the name of such transferee in the register of the company. Clause 40 confers an absolute discretion on the board of directors. That provision is in the following terms :

"The directors may, at their own absolute and uncontrolled discretion, decline to register any transfer of shares by a shareholder who is indebted to the company or upon whose shares the company have a lien or otherwise, or any transfer to any person not; approved by them, and in no case shall a shareholder or proposed transferee be entitled to require the directors to state the reason for the refusal to register, but their refusal shall be absolute, and shall not be liable to be questioned."

12. We have discussed the effect of the aforementioned provisions in the previous paragraphs. We reiterate, in the light of decided cases, that the company cannot be compelled to disclose the reasons for refusal to register unless the applicants prove positively that the company exercised that discretion oppressively or capriciously or against the interests of the company or the shareholders or the general public. The appellant had not led any such evidence. On the other hand, the evidence led by the company has made put sufficiently clear that the board of directors acted in good faith in accordance with the articles of association and in the interests of the company in dealing with and disposing of the application. We should add that the impression which we gather, on a reading of the evidence of PW-1, is that the appellant wanted somehow to get into the company. The reliance placed on exhibit A-4 and exhibit A-7 dated February 11, 1982, and September 29, 1982, respectively, the former of which was delivered to the company only on September 24, 1982, whereas the latter was not received at all, only indicates an anxiety to create evidence artificially to claim that there was due compliance with Clause 39 of the articles of association.

The fact that soon after receipt of exhibit A-4 (same as exhibit B-3), the company acted promptly and that act elicited two offers from members proves the bona fides of the respondent. RW-1 was positive in his evidence that a letter of one of the members, Sri, Balakrishnan Nair, exhibit B-1, was brought to him by PW-I himself. This indicates the dogged persistence of the appellant to get into the company by means fair or foul. In this state of the evidence, we are of the opinion that the learned single judge was fully justified in holding that the appellant was not able to make out any case for interference with the discretion of the directors.

13. Clause 41 provides for the formalities to be complied with in filing an application for transfer. That provision reads :

"Every instrument of transfer shall be in writing and signed by the transferor and transferee and in the case of share held by two or more joint holders, or to be transferred to the joint names of two or more transferees by all such joint holders, or by all such transferees as the case may be and must be left at the office of the company to be registered, accompanied by the certificate for the shares to be transferred and by such evidence as the directors may reasonably require to prove the title of the transferor, and a fee of two rupees or such other sum as the directors shall from time to time determine must be paid to the company for the registration of every such transfer, and upon payment thereof the directors subject to the powers vested in them by Article 40 shall register the transferee as a shareholder and retain the instrument of transfer, but the transferor or the transferors, as the case may be, shall be deemed to remain the holder or holders of such share until the name or names of the transferees is or are entered in the register of members in respect thereof."

14. It is clear from Clause 41 of the articles of association that strict compliance with the procedural requirements is absolutely essential. Section 108 of the Act enjoins upon the company to reject any application for transfer of shares, unless the procedural requirements are fully complied with. That there, has been non-compliance with the requirements is not very much in dispute in this case. What counsel for the appellant urges is that such non-compliance was inconsequential. The definite ease of the respondent-company was that the appellant had not sent the share certificate which was sought to be transferred along with exhibit A-7 letter dated November 19, 1982. Nor did the applicant remit Rs. 2 to the company for transfer as enjoined by Clause 41 of the articles of association. Counsel submits that these requirements were made good soon thereafter when exhibit A-8 dated November 20, 1982, a formal request from the share holder and the applicant along with the share transfer form which was duly filled up and stamped was forwarded to the company. The submission which the appellant makes is that the procedural requirements of transfer of shares are, in the very nature of things, only directory and not obligatory ; and therefore, the application was not liable to be rejected if there was substantial compliance with the requirements.

15. We have seen from the decision of the Supreme Court in *Mannalal Khetan v. Kedar Nath Khetan* [1977] 47 Comp Cas 185, that the negative, prohibitory, and exclusive words are indicative of a legislative intent that the statute is mandatory. Negative words are clearly prohibitory and are ordinarily used as a legislative device to make a statutory provision imperative. The words "shall not register" are mandatory in character. The mandatory character is strengthened by the negative form of the language, It cannot be said that the provisions Contained in Section 108 are directory because non-compliance with the section is not declared an offence. Section 629 A of the Act prescribes the penalty where no specific/penalty is provided elsewhere in the Act. It is a question of construction in each case as to whether the Legislature intended to prohibit the doing of the act altogether, or merely to make the person who did it liable to pay the penalty. The provisions contained in Section 108 are mandatory. This being the legal position as declared by the Supreme Court of India, we have no hesitation in holding that the learned company judge was right in holding that the application for transfer was liable to be rejected due to non-compliance with the procedural formalities and in view of the provisions contained in Section 108 of the Companies Act, 1956.

16. There was some considerable argument as to whether the evidence disclosed the unsuitability of the applicant to be registered as a transferee of the shares, We must frankly state that it is not the concern of this court, either on the original side or on the appellate side, to assume what would have been the reasons which prompted the refusal to register the transfer, and then to find out whether those reasons were good or bad. Article 40 of the articles of association confers an unfettered discretion on the board of directors of the company not to state any reason at all for rejecting an application for transfer. That clause, which forms part of the contract of incorporation specifically provides that:

"In no case shall a shareholder or proposed transferee be entitled to require the directors to state the reason for the refusal to register, but their refusal shall be absolute, and shall not be liable to be questioned."

17. If no member is entitled to insist that the company shall state reasons for refusal to transfer, and such refusal shall be absolute and not liable to be questioned, we cannot hold that an outsider who wants to become a member of the company must be in a better position. The imperatives of Clause 40 apply not only to the members but also, to a proposed transferee. We are, therefore, not in a position to accede to the submission that Clause 40 binds only a member of the company and not a proposed transferee. What he offers and proposes is to be a member of the company in terms of the contract of its incorporation and not in defiance thereof.

18. It may be true that the board of directors may state reasons in spite of the absolute and uncontrolled discretion to decline to register a transfer without stating any reason at all. It may also be seen as was held in *Harinagar Sugar Mills Ltd. Vs. Shyam Sundar Jhunjunwala and Others*, ; *Bajaj Auto Ltd. Vs. N.K.*

Firodia and Another etc., and South Indian Bank Ltd. Vs. Joseph Michael, that such reasons are open to scrutiny at least to a limited extent by courts. The two former cases made out a clear case of oppression of minority shareholders and all the three cases dealt with a wrangle by warring groups to take over control of the company by any means. But, no court has so far said that except in cases where the applicant proves that the board of directors was actuated by corrupt, oppressive, capricious, arbitrary or mala fide motives in declining the application, the court shall compel the board of directors to disclose the reasons, scrutinise the same and then find such reasons to be improper.

19. A few glaring facts which even otherwise justify the finding on merits are discernible from the evidence in this case. Exhibit A-2 application for transfer was made on November 10, 1981, without compliance with Clauses 33 to 39 of the articles of association of the respondent-company. The board of directors duly considered the application and rejected the same in exhibit A-3 dated December 1, 1981. The second respondent is alleged to have issued exhibit A-4 notice dated February 14, 1982, of intention to transfer the shares, as enjoined by Clause 3B of exhibit A-1 articles of association to transfer the shares at the rate of Rs. 100 per share. RW-1 was positive in his evidence that exhibit A-4 dated February 14, 1982, was received by him only on September 24, 1982. This is evident from exhibit B-3 the original of exhibit A-4 on which RW-1 entered a note and initialled on that day. It is also evident that the proposal was placed before the board of directors immediately thereafter, and the company circulated to all shareholders a proposal by the second respondent to transfer her shares. Two members, one Shri Balakrishnan Nair and another Shri Premkumar wrote back to the company in exhibits B-10 and B-15 letters signifying their acceptance of the offer. RW-1 has deposed that PW-1, father of the applicant, was contacting the above two members and had brought exhibit B-11 communication from Mr. Balakrishnan Nair, withdrawing his offer. In reply to exhibit B-16 letter dated November 11, 1982, Shri Premkumar wrote exhibit B-17 dated December 7, 1982, affirming his offer. The company also received exhibit B-9 lawyer notice on behalf of Shri Premkumar protesting against the proposed rejection of the offer made by Shri Premkumar. The company also received exhibit B-18, letter dated December 7, 1982, from Shri Pachayyappan, father of Shri Premkumar, questioning the rejection of Shri Premkumar's offer to purchase the shares. Shri Pachay-yappan was a member of the company. His letter was dated December 7, 1982. The difference in the signature of Shri Premkumar was pointed out again to his father Pachayyappan and his counsel Shri C. Achutha Menon. Copy of that letter was also sent to the Registrar of Companies. It was in the meantime that the company sent exhibit B-14 (exhibit A-6) letter dated November 11, 1982, to the second respondent to the effect that no shareholder is available to purchase her shares. RW-1 states that it was on the same date that he wrote exhibit B-16 to Shri Premkumar to confirm his address, so as to pursue his offer further. The company then received exhibit A-7 letter dated November 15, 1982, to the effect that since there was no-response to the notice exhibit B-14 dated January

24,1983, he had transferred his shares to the applicant. It is very significant that exhibit A-4 notice said to be. dated February 14, 1982, was received by the company only on April 29, 1982. This categoric assertion of RW-1 was not shaken in spite of a detailed cross-examination. Nor was the petitioner able to make any headway regarding the assertion of RW-1 that he had not received any reminder dated July 29, 1982. If that be the position, the company received notice from the second respondent under Clause 35 of the articles of association only on September 24, 1982. The period of three months within which the board of directors ought to have mentioned the names of the members of the company who were willing to accept the offer would have expired only on December 23, 1982. The company had, in the meantime, received two offers, one from Shri Balakrishnan Nair and the other from Shri Premkumar. Withdrawal of the acceptance of the offer made by Balakrishnan Nair was taken to the company by PW-1 himself. The other offer of Shri Premkumar could not have been, nor was it, actually rejected. The company was in the process of ascertaining the genuineness of his offer. The respondent need, however, have responded to exhibit A-4/B-3, which it received only on September 24, 1982, within three months thereafter. It is significant to note that the company would have taken action but for the letter of the Registrar of Companies to withhold any further action in the matter. On a scrutiny of such evidence, we are of the opinion that the applicant and his father, PW-1, were adopting all means to see that somehow or other the shares were transferred in the name of the applicant-appellant. It is in evidence that RW-1 knew the applicant and his father, RW-1, fairly well. The appellant had gone to the extent of suggesting to RW-1 whether PW-1 was not a close friend of the brother of RW-1. They belonged to the same town and they knew each other. In these circumstances, if a private limited company, which is a closed corporation with only 3,000 shares, decided not to entertain, or admit the applicant--who was known to the company and its constituents -- as a member, we cannot find that such decision to decline admission to the applicant was improper or capricious or arbitrary or oppressive. The decision was apparently due to the compulsions of the articles of association to the effect that if another member offered to purchase the shares which were available for transfer, such member shall have priority over an outsider. The anxiety of the company to prefer a member, and not an outsider to hold the shares cannot be considered as unreasonable or arbitrary.

20. We are, therefore, of the opinion that even on merits, the evidence available before the learned company judge was such that it fully justified the conclusion that the company was not actuated by any improper or mala fide motive in declining to register the transfer of shares in favour of the applicant. The company had its own reasons for not approving the appellant to be a constituent of the company. It is not liable to be compelled to disclose its reasons. Unless vitiating circumstances are specifically pleaded and positively proved, we shall assume that the reasons were good or at least that they were not bad. The court shall not look any further. The company, particularly a private limited company,

should know better as to how to order its affairs. The court steps in only if it acts oppressively or capriciously or mala fide or against the interests of the company or its shareholders or the general public. The interests of a stranger-applicant for purchase of shares do not fall into any of those categories, in the proved facts of this case.

21. We, therefore, dismiss this appeal, but, in the circumstances of the case, without any order as to costs.