(2026) 07 CAL CK 0097

In the Calcutta High Court, Original Side

Case No : APO/84/2024 WITH CS/100063/1996, CS/245B/1996

Sunil Kumar Jalan APPELLANT

Vs

Chandra Kumar Kanoria and Ors RESPONDENT

Date of Decision : 20-07-2026

Acts Referred:
Companies Act, 1956 — Section 10F, 111, 397, 398
Companies Act, 2013 — Section 58, 433

Citation : (2026) 07 CAL CK 0097

Hon'ble Judges : Debangsu Basak, J;Ajay Kumar Gupta, J

Bench : Division Bench

Advocate : Mr. Mainak Bose, Sr. Adv.; Mr. Rishav Karnani, Adv.; Mr. Pranav Sharma, Adv. — For the Appellant. Mr. Sabyasachi Choudhury, Sr. Adv.; Mr. Rajarshi Dutta, Adv.; Ms. Anuradha Poddar, Adv. — For Plaintiff. Mr. Debnath Ghosh, Sr. Adv.; Mr. Satyaki Mukhjeree, Adv.; Mr. Uttiyo Mallick, Adv. — For Respondent No. 1. Mr. Jishnu Chowdhury, Sr. Adv.; Mr. Abhidipto Tarafder, Adv. (VC); Mr. Sayan Banerjee, Adv. — For Respondent No. 2. Mr. Rabi Prosad Mookerjee, Adv. — For Joint Administrators.

Final Decision : Dismissed

Judgement

DEBANGSU BASAK, J.:-

1. Appeal is directed against the order dated April 24, 2024 passed by the learned Single Judge.

2. By the impugned judgment and order, learned Single Judge dismissed the application of the appellant in relation to reliefs sought in respect of 560 shares, which the appellant claims to be the owner of in the company namely, Lopchu Tea Company Limited. By the impugned judgment and order, learned Single Judge disposed of the application of the defendant nos. 1 and 2 filed in respect of the same 560 shares of and in the company.

3. Learned Senior Advocate appearing for the appellant submits that, the Administrator General of the State of West Bengal was the owner of 560 shares

of and in the company. Appellant purchased such shares on July 22, 1997. On the same date, the appellant lodged the share certificate for transfer in the name of the appellant with the company.

4. Learned Senior Advocate appearing for the appellant submits that, in the suit, Joint Administrators were appointed. Joint Administrators still are in the helm of the affairs of the company. The appellant applied with the Joint Administrators for share transfer. He refers to the report submitted by the Joint Administrators in the suit. He submits that, the application for share transfer of these 560 shares is an issue raised by the Joint Administrators in their report dated May 12, 1998.

5. Learned Senior Advocate appearing for the appellant submits that, the defendants in the suit filed proceedings under Sections 397 and 398 of the Companies Act, 1956 before the Company Law Board. By an order dated October 28, 1999, Company Law Board stayed such proceedings. Appeal carried under Section 10F of the Act of 1956 was dismissed on January 11, 2000 on the ground that, no question of law was involved.

6. Learned Senior Advocate appearing for the appellant submits that, the appellant is not a party to the suit. Appellant became aware of the appointment of the Joint Administrators in respect of the affairs of the company and applied with the Joint Administrators for such share transfer. Joint Administrators not taking any steps, the appellant approached the Court in 2023 for the purpose of registration of 560 shares of and in the company in favour of the appellant.

7. Learned Senior Advocate appearing for the appellant submits that, the defendant nos. 1 and 2 applied for reliefs in the pending suit with regard to the 560 shares as also the transfer of these 560 shares in favour of the appellant by the Administrator General of the State of West Bengal. Therefore, according to him, it does not lie in the mouth of the defendants to raise the issue of the reliefs sought for by the appellant to be beyond the scope and ambit of the suit.

8. Learned Senior Advocate appearing for the appellant submits that, the defendants wanted the 560 shares to be transferred by the Administrator General of the State of West Bengal in their favour. Not succeeding therein, they applied for reliefs in the suit.

9. Learned Senior Advocate appearing for the appellant submits that, the appellant purchased 560 shares for valuable consideration. Appellant is entitled to the reliefs sought for in the application.

10. Learned Senior Advocate appearing for the plaintiff draws the attention of the Court to the prayers made in the application of the defendant nos. 1 and 2 with regard to 560 shares over which, the appellant is claiming right. He submits that, it is the defendant nos. 1 and 2 who raked up the issue of alleged illegal transfer of the 560 shares by the Administrator General of the State of West Bengal in favour of the appellant, in the suit itself.

11. Learned Senior Advocate appearing for the plaintiff submits that, defendant nos. 1 and 2 applied for reliefs with regard to the 560 shares. Therefore, the defendant nos. 1 and 2 accepted that, the issue of 560 shares was within the scope and ambit of the suit. He submits that, the application of the defendant nos. 1 and 2 in this regard was dismissed by the judgment and order impugned herein.

12. Learned Senior Advocate appearing for the plaintiff draws the attention of the Court to the report dated May 12, 1998 submitted by the Joint Administrators. He submits that, the Joint Administrators put the share transfer of 560 shares as an issue in the suit itself. Therefore, in such perspective also, the transfer of the 560 shares in favour of the appellant cannot be said to be beyond the scope and ambit of the suit.

13. Learned Senior Advocate appearing for the defendant no. 2 submits that, the suit is not for administration and management of the company. He refers to the prayers made in the plaint. He contends that, the relief sought for by the appellant in respect of 560 shares is beyond the scope and ambit of the suit as obtaining today.

14. In response to a query of the Court, learned Senior Advocate appearing for the defendant no. 2 submits that, although the defendant no. 2 filed written statement, his client did not make any counterclaim. In further response to a query of the Court, he submits that, there is no counterclaim filed by any of the defendants to the suit.

15. Learned Senior Advocate appearing for the defendant no. 2 submits that, the relief sought for by the appellant in respect of the 560 shares is barred by limitation. In support of such contention, he relies upon *2026 SCC Online SC 34 (Property Co. P. Ltd. Vs. Rohinten Daddy Mazda)*. He points out that, the shares were claimed to be purchased on July 22, 1997. The application before the Joint Administrators for share transfer was lodged on the same date. The appellant approached the High Court in the suit, in 2023 by way of an application, in which the impugned judgment and order was passed. Therefore, he contends that, the claim made by the appellant is barred by laws of limitation.

16. Learned Senior Advocate appearing for the defendant no. 2 points out that, in response to a query, the Administrator General of the State of West Bengal stated that, No Objection Certificate for the share transfer was issued on August 19, 1997.

17. Learned counsel appearing for the defendant no. 1 adopts the submissions advanced on behalf of the defendant no. 2.

18. A suit, being CS/245B/1996 was filed by three persons as plaintiffs. The first plaintiff is the company, while the second and third plaintiffs are natural persons. There are two defendants in the suit.

19. In course of hearing of the appeal, we repeatedly requested each of the

learned counsel for the parties, to draw our attention to the prayers of the plaint, which encompasses the 560 shares over which, the appellant seeks relief. The answer at the Bar is in the negative. In other words, our attention is not drawn to any prayers of the plaint, which encompasses the 560 shares over which, the appellant seeks relief.

20. In the suit, from time to time, the learned the Trial Judge as also the Co-ordinate Benches passed the diverse orders. Joint Administrators were appointed in respect of the affairs of the company. The appointment of the Joint Administrators was on September 12, 1996. The share transfers are of July 22, 1997.

21. The appellant is not a party to the suit. We discussed the scope and ambit of the suit in the sense, whether or not, the 560 shares over which, the appellant seeks relief, is a part and parcel of the suit. We are of the view that, 560 shares over which, the appellant is seeking relief is not a part and parcel of the suit which is pending. This is one of the findings of the learned Single Judge in the impugned judgment and order. We concur with such view.

22. In the event, it is claimed that, the Joint Administrators were appointed in respect of every aspect of the company involved in the suit, including share transfer, then, the Joint Administrators were appointed on September 12, 1996. Shareholding position as on that date was therefore, by the logic of such contention was required to be frozen. 560 shares over which, the appellant seeks relief, is a transfer of share in favour of the appellant subsequent to September 12, 1996 and occurring on July 22, 1997. On such factual matrix also, assuming that to be correct, then also the appellant is not entitled to any relief inasmuch as, granting any relief to the appellant will disturb the equilibrium of the shareholding pattern obtaining as on September 12, 1996.

23. Appellant, as noted above, is not a party to the suit. Defendants filed written statement without any counterclaim being made. Scope and ambit of the suit, as the plaint stands therefore, does not encompass the 560 shares over which, the appellant seeks relief. The application by any of the parties to the suit in respect of the 560 shares which, the appellant seeks relief, will not encompass the scope and ambit of the suit unless, the prayers of the plaint allows it to be so. As noted above, there is no counterclaim. Plaint, as it stands today, read with the prayers does not encompass the subject 560 shares over which, the appellant seeks relief.

24. The second ground on which the learned Single Judge dismissed the application of the appellant is limitation.

25. In the context of Section 111 of the Companies Act, 1956, *Property Co. P. Ltd. (supra)* is of the following view:-

> 144. The facts and circumstances of the present case are slightly different from that in *Thirumalai Chemicals Ltd. v. Union of India*, 1. As aforementioned, the newer law of

> limitation which is applicable to the matter cannot revive a dead remedy. In the facts of our case, the appellant-company issued its notice refusing to register the transmission of shares on April 30, 2013, i.e., during a time when the regime under the erstwhile Act, was in vogue. More specifically, it was Section 111 (2) read with section 111(3) of the erstwhile Act, which governed the field. According to those provisions, the respondent herein must have preferred an appeal before the Company Law Board within a period of two months from the date of the notice of refusal, i.e., before June 30, 2013. It is not in dispute that the respondent failed to file such an appeal before June 30, 2013. There existed no power to condone delay with the Company Law Board during this period. Therefore, the remedy under section 111(2) read with section 111(3) of the erstwhile Act, was already dead, much before the coming into force of section 58 of the Act, 2013 on September 12, 2013 let alone the coming into force of section 433 of the Act, 2013 on June 1, 2016.

26. Admittedly, the share transfer took place on July 22, 1997. Approach to the High Court was made in 2023. There is, therefore, issue of limitation involved.

27. Proceedings under Sections 397 and 398 of the Act of 1956 are pending before the Company Law Board and they remain stayed by virtue of the order dated October 28, 1998. Appeal therefrom was dismissed on January 21, 2000.

28. In view of the discussions above, we find no ground to interfere in the present appeal.

29. APO/84/2024 is dismissed, without any order as to costs.

OPINION OF AJAY KUMAR GUPTA, J.

30. I agree.