
(1912) 07 BOM CK 0017
In the Bombay High Court
Case No : First Appeal No. 48 of 1912

The Rajnagar Sping., Weavg. and Mfg. Co. Ltd.	APPELLANT
Vs	
Manilal Maganlal	RESPONDENT

Date of Decision : 30-07-1912

Acts Referred:

Citation : (1912) 14 BOMLR 919 : 17 Ind. Cas. 640

Hon'ble Judges : Chandavarkar, J;Batchelor, J

Bench : Division Bench

Judgement

Chandavarkar, J.—The District Judge has taken the correct view of Article 29 of the Articles of Association of this Company. The Article provides, " The fees for the transfer of shares will be charged at the rate of eight annas per each share. And if nothing is due to the Company by the share-holder who sells his share or transfers it to another and if the transferee is a proper person, the share will be transferred to the name of the transferee." One condition, therefore, of the transfer is that the transferee should be a proper person. The Article is silent on the question who is to decide whether the transferee is a proper person-the Directors or the Company. It is unnecessary to decide who is to determine that question before the transfer is registered. There cannot be any the slightest doubt that the Court has ultimately jurisdiction to decide whether the transferee has a right under that Article to get his name registered or not, and for that purpose to determine whether he is a proper person. The Article itself being silent as to the authority, either of the Company or of the Directors, to determine the question as a preliminary one, before registering the name of the transferee, the proper inference to be drawn is that the words " a proper person " are introduced there as a qualification of the transferee, such qualification being dependent, ultimately upon the decision of the Courts, should the question be carried to the Court. It is a condition of the right, but who is to determine that condition is not said in the Article. And in the absence of any express provision to that effect, I think, it is a reasonable inference that that is a question which has to be determined by the Courts even without reference to the Directors or the

Company. If that is so, when a would-be transferee goes to- the Company and shows the transfer-deed, the Directors must accept him, unless they show that he is an improper person. He has a right to come before the Court and say that his right has been violated. For these reasons the order of the Court below must be confirmed with costs.

Batchelor, J.

2. I am of the same opinion. It may be that under Clause 29 of the Articles of Association the power of pronouncing this would-be transferee to be a fit person rested with the Company, and if they had sought to exercise that power in a suitable manner, it is possible that they would have achieved their aim. But all that they have done is to adopt the action of the Agent and to refuse peremptorily to allow the transferee's name to appear on the register. No reason whatever is given for this decision, which is, therefore, so far as we can judge of it, merely capricious. In this Court the most that Mr. Gokuldas could urge against the fitness of the transferee to appear on the register was that he was a cantankerous person, but there is nothing on the record to sustain even so flimsy an accusation as that. I agree, therefore, that the District Judge's order should be confirmed.