

(1953) 11 MP CK 0019

In the Madhya Pradesh High Court

Case No : Civil Miscellaneous Case No. 10 of 1952

Umedbhai Jhaverbhai

APPELLANT

Vs

Moreshwar Keshav and others

RESPONDENT

Date of Decision : 23-11-1953

Acts Referred:

Companies Act, 1956 — Section 247(6)

Citation : AIR 1954 MP 146

Hon'ble Judges : V.R. Nevaskar, J

Bench : Single Bench

**Advocate : S.M. Kutumbale, for the Appellant; D.G. Bhalerao, for Opponents
Nos. 1, 4, 8 and 9, for the Respondent**

Judgement

Nevaskar, J.—This is a petition under S. 247(6), Companies Act to restore the name of Shalini Mills Ltd. Alote (Vikramgarh) to the register of Companies made by the petitioner Umedbhai s/o Jhaverbhai Patel of Bombay. In this application he impleaded the Directors of the said Company and also the Registrar of Companies Madhya Bharat Gwalior / Indore.

2. The petitioner's allegations are that he acted as an agent for the said Mills for the purchase of machinery for which the said Mills owed to him Rs. 18,981-6-0. A suit for the recovery of this sum was filed by him in the High Court of Judicature at Bombay in the year 1948 and this suit is still pending.

3. The Registrar of Companies in exercise of the powers vested in him under S. 247(3), Companies Act, published a notice dated 6-1-1951 in the Madhya Bharat Government Gazette dated 13-1-1951 wherein it was mentioned that the name of "The Shalini Mills Ltd.", would be struck off the register of companies at the expiration of three months from the date of this notification unless the cause is shown to the contrary and that it would be dissolved. As no cause was shown by the Directors or anybody else and no response was received by the Registrar to the above referred notification he notified in the Madhya Bharat Government Gazette dated 21-4-1951 that the name of "The Shalini Mills Ltd." has been

struck off the (sic)register of the Companies in accordance with Sub-(sic)(5) of S. 247, Companies Act, 1913.

4. The petitioner came to know of this fact (sic) removal according to him when opponent No. 1 (sic)loreshwar Keshav Puranik informed the petitioner's attorneys that the Company's name has been removed from the register.

5. The petitioner therefore prays for the resto-(sic)ation of the name of the company on these facts.

6. In the reply submitted on behalf of opponent (sic) 1 it is contended that he was unaware of the (sic)ublication of the notification in the Gazette dated (sic)3-1-1951 and therefore no cause was shown by him (sic)or not removing the name of the Company from (sic)he register of the Companies to the Registrar. He (sic)dmitted that he had informed the attorneys that (sic)he Company's name had been removed from the (sic)egister.

7. No other opponent appeared to contest this petition.

8. It is clear from the facts stated above that (sic) the time when the Registrar issued notice in (sic) Gazette calling upon the persons concerned to how cause why the name of the Company should not be removed from the register the suit filed by (sic) petitioner in Bombay High Court was pending (sic) was being contested on behalf of the Mills. (sic) these circumstances it is clear that there was a contested claim against the Mills and the Company was actually in operation though it was not doing business.

I have held in -- "Bhogilal v. Registrar, Joint stock Companies Madhya Bharat Gwalior", AIR 1954 MB 70 (A) that when a suit is actually (sic)ending against a Company and is being contested (sic) it at the time of the removal of its name from (sic) register it is proper to direct the restoration of the name of the Company particularly when (sic) Directors were aware of the fact of the con-(sic)ested litigation and were actually taking part in (sic) In this case it could not be said that the Direc-(sic) were absolutely ignorant of the steps taken by (sic) Registrar particularly when after the removal (sic) was the opponent No. 1 himself who took care (sic) inform the petitioner's attorneys that the name (sic)the Company has been removed from the (sic)egister.

9. Under the circumstances I think it proper to (sic)lirect the restoration of the name of the Company (sic) the register of the companies Madhya Bharat.

10. The petitioner will be entitled to his costs (sic)rom opponents 1 to 9. Pleader's fee to be taxed (sic) Rs. 10/-.