

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **28.06.2024** THROUGH VIDEO CONFERENCE

**PRESENT: HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)**

Application No :
Petition No : CP/45(CHE)/2022
Name of Petitioner : K.V.R Chowdhary
& Vs
Name of Respondent : Renewable Energy Engineering Equipments Pvt Ltd & 5 Ors
Section : Sec 59 of CA, 2013

ORDER

Present: None for the parties.

Vide separate order pronounced in open Court, the petition is disposed of with directions.

File be consigned to records.

-sd-
[VENKATARAMAN SUBRAMANIAM]
MEMBER (TECHNICAL)

MS

-sd-
[SANJIV JAIN]
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH - I, CHENNAI**

CP(CA)/45(CHE)/2022

(Filed under Section 59 of the Companies Act, 2013)

In the matter of Renewable Energy Engineering Equipments Private Limited

K.V.R. Chowdhary

VNR Towers, Block A,
Flat No.109, Mahadevapuram
Balaiah Basti Road,
Gajularamapuram Village,
Quthbullapur (MD)
Hyderabad – 500 055

...Applicant

-Versus-

1. **Renewable Energy Engineering Equipments Pvt. Ltd.**
No.243/245, Vanagaram Road,
Athipet, Chennai – 600 058
2. **K. Vijayalakshmi**
2667/4, Y-Block, 9th Street,
12th Main Road, Anna Nagar,
Chennai – 600 040
3. **Kambhampati Ujwala**
2667/4, Y-Block, 9th Street,
12th Main Road, Anna Nagar,
Chennai – 600 040
4. **Kambhampati Varnavi**
2667/4, Y-Block, 9th Street,
12th Main Road, Anna Nagar,
Chennai – 600 040

5. **G. Sivaprakash, CA**
Statutory Auditor
No.5, 5th Cross Street,
West Shenoy Nagar,
Chennai – 600 030

6. **Registrar of Companies**
Block No.5, Wing 2nd Floor,
Shastri Bhavan, No.25, Haddows Road,
Nungambakkam, Chennai – 600 034

...Respondents

Order Pronounced on 28th June 2024

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Applicant : *Jayashankar, Advocate*

For Respondent : *Ex – parte*

ORDER

(Hearing conducted through physical mode)

This is an Company Petition filed by the under Section 59 of the Companies Act, 2013 seeking relief as follows;

- (a) *Pass such order and directions under Section 59 of the Companies Act, 2013 for rectification of the Register of members of M/s. Renewable Energy Engineering Equipments Private Limited and further rectify the shareholding pattern of the Company by incorporating the petitioner's name as he is entitled to 700 equity shares and for transmission of proportionate shares as legal heir in*

respect of his son Mr P Prabhakar Chowdry's share of 12,000 equity shares in the 1st Respondent Company.

(b) Pass any such further order or orders as this Hon'ble Tribunal may deem fit in the facts and circumstances of this case and thus render justice.

2. It is stated that the 1st Respondent Company was incorporated on 13.10.1986 under the provisions of the Companies Act, 1956. The main object of the Company is to carry on the business of manufacturing of renewable energy equipments, pollution control equipments and related business, etc.

3. It is stated that the Applicant is the Chief promoter and investor of the 1st Respondent Company. At the time of incorporation of the 1st Respondent Company in the year 1986, the Applicant proposed 2 (Two) directors viz. Mr. Ch. Venkata Rao, who is son in Law of Applicant and one Mr. K. Chandrashekar Chowdary, who is the elder son of Applicant. It is stated that the Company was involved in conversion of Non Ferrous metal and was initially functioning from a rental premises.

4. It is stated that the Applicant being the Chief promoter and investor in the company, had purchased land in the name of the 1st Respondent Company on 18.06.1999. In the year 1989, the applicant in the capacity of Chief Promoter appointed his youngest son Mr. Prabhakar Chowdhary as the Managing Director of the 1st Respondent Company. Further, in the year 2016, the said Prabhakar Chowdhary suddenly became ill and was unable to manage company affairs. Hence the applicant vested the responsibility of managing the affairs of the 1st Respondent Company to one Mrs. K. Vijaya Lakshmi, wife of Prabhakar Chowdhary and daughter-in-law of the applicant.

5. It is stated that the authorized share capital and the issued, subscribed and paid up share capital of the 1st Respondent Company as per the MOA of the 1st Respondent Company at the time of incorporation is as follows;

PARTICULARS	RUPEES
<u>Authorised share capital</u> 1,000 Equity Shares of Rs.1000/- each	10,00,000/-
<u>Issued subscribed and paid up</u> 2 Equity shares of Rs.1000/-each	2,000/-
TOTAL	2,000

6. It is stated that as on the date of incorporation of the 1st Respondent Company, the shareholding pattern of the Company is as follows;

Details of Shareholders				
S. No.	Name	No. of Shares held	%	(in INR)
1	K Chandrashekar	1	50	1,000
2	C H Venkata Rao	1	50	1,000
	Total	2	100	2,000

7. It is stated that a detailed search was conducted with the MCA records. It was found that the Transfer, Allotment or Transmission details of the shares of the 1st Respondent Company are not available for the years 1986 – 2000.

8. It is stated that the list of share transfers that had taken place in the 1st Respondent Company as per the MCA Records as on 23.11.2001 is as follows;

S. No.	Transferor	Transferee	No. of Shares
1	K Chandrashekar Chowdary	K Lakshmi	2000
2	C H Venkata Rao	K Prabhakar Chowdry	500
3	K V R Chowdry	K Lakshmi	3000
4	Nirmala	K Lakshmi	2000

5	Sarala	K Lakshmi	2000
6	K V R Chowdry	K Prabhakar Chowdry	1850

9. It is stated that after the above share transfer among the parties, the 1st Respondent Company filed its Annual Returns with the ROC for the Financial Year ended 31.03.2001 and the shareholding pattern of the 1st Respondent Company as shown in the MCA record during the years 2001 to 2004 is as follows;

S. No.	Name	No. of Shares held	%	(in INR)
1	K Prabhakar Chowdry	12000	55.30	12,00,000
2	K Lakshmi	9000	41.47	9,00,000
3	K V R Chowdry	700	3.23	70,000
	Total	21,700	100	21,70,000

10. It is stated that the 1st Respondent Company had filed its financial statements with the RoC for the Financial Year 2017 – 2018 onwards and the shareholding pattern of the 1st Respondent Company as shown in the MCA records during the aforesaid Financial Years is as follows;

S. No.	Name	No. of Shares held	%	(in INR)
1	K Lakshmi	86,800	40	8,68,000
2	K Ujwala	1,30,200	60	13,02,000
	Total	2,17,000	100	21,70,000

11. It is stated that the applicant was holding 5,500 shares in the 1st Respondent Company. He had transferred 3000 shares to his daughter-in-law Mrs. Lakshmi, who is the wife of Prabhkar Chowdary. Further, the applicant transferred 1850 shares to his son Mr. Prabhakar Chowdary on 23.11.2001 and the remaining 700 shares were retained by the applicant.

12. It is stated that on 23.07.2017, when the son of the applicant i.e. Mr. Prabhakar Chowdary died, Mrs. Vijaya Lakshmi, wife of Mr. Prabhakar Chowdary, without consulting the applicant, appointed her daughter Ms. K. Ujwala, the 3rd Respondent herein as the Director of the Company with effect from 24.01.2018 and without taking appropriate consent or approval of the promoters and shareholders of the 1st Respondent Company.

13. It is stated that the applicant had several times requested Mrs. K. Lakshmi as to the status of the 12,000 shares standing in the name of Mr. Prabhakar Chowdary and also of the 700 shares standing in the name of the applicant, to which, there was no reply from Mr. Lakshmi and also

there is no proper record of transmission/transfer in respect to his shares and his son Mr Prabhakar Chowdry's shares after his death.

14. It is stated that Ms K.Ujwala & Mrs Vijaya Lakshmi unilaterally passed a resolution for appointment of Mrs. K.Vijaya Lakshmi as Managing Director of the company with effect from 02.02.2018 without any intimation or approval of the promoters and shareholders of the company.

15. It is stated that Ms. K. Ujwala & K. Vijaya Lakshmi filed form DIR – 12 after cessation of Mr. Prabhakar Chowdry on 02.02.2018, when he passed away on 23.07.2017 itself. It is stated that on 19.04.2019 Mrs.Vijaya Lakshmi resigned from the Board of Directors of the 1st Respondent Company as her DIN was disqualified by MCA under Section 164 of the Companies Act, 2013 for non-filing of Financial Statements and Annual Returns for 3 consecutive financial years (2015, 2016, 2017) and subsequently her second daughter Ms.Varnavi was appointed as Director in the 1st Respondent Company.

16. It is stated that as per the Financial Statements filed up to 2014, with the Ministry of Corporate Affairs and the Registrar of Companies, the applicant, was shown to be a shareholder of the company. However on perusal of the latest filed financial statements filed with the ROC, the shareholders of the company are shown to be Mrs. Lakshmi & Ms. Ujwala. There are no proper records as to what had happened to the shares held by Mr. Prabhakar Chowdry after his death and to the shares held by Mr. KVR Chowdary, the Applicant.

17. It is stated that the Applicant issued a legal notice on 26.02.2020 to the 1st Respondent Company, to which, there was no reply. It is stated that Mrs. K. Vijaya Lakshmi in the Capacity of director had hived off and sold the machineries and equipments of the 1 Respondent Company without knowledge of Applicant and other stakeholders. The Applicant was under the bonafide impression and belief that his daughter-in-law would run the affairs of the 1st Respondent Company without any deviation or violation of the rules and regulations stipulated under the provisions of the Companies Act 2013.

18. The Applicant further states that, to his shock and surprise, in the month of December, 2017 he came to know that, the machineries and equipments of the 1st Respondent Company were sold by daughter-in-law without the petitioners knowledge. It is stated that after a few days, the Applicant was shocked to receive that the 1st Respondent Company shed has been leased out to one M/s. Jasmine Furniture in the year 2016 itself. It is stated that the daughter – in – law has collected a sum of Rs.9,00,000/- as refundable deposit from the lessee and monthly rents of Rs.90,000/- per month.

19. It is stated that the appointment of the 3rd and 4th Respondents as the Director of the 1st Respondent Company without any Board Resolution is apparently illegal, irregular and improper. It is stated that unsatisfactory answers and evasive reply were given by the 2nd, 3rd and 4th Respondents when the Applicant made several attempts to clarify and rectify all the fraudulent acts done by them in respect of the 1st Respondent Company.

20. It is stated that the 2nd Respondent upon whom the Applicant had reposed trust and good faith, sought to misuse such trust by attempting

to oust the Applicant from the affairs of the Company. It is stated that no meetings have been conducted by the 2nd to 4th Respondents and all the documents have been unilaterally finalized and filed by the said Respondents.

21. It is stated that since the assets of the 1st Respondent Company have already been sold without any intimation or concurrence of the Applicant, the Applicant apprehends that the remaining assets of the 1st Respondent would be misappropriated by the 2nd to 4th Respondents. It is stated that the transfer of shares had been done in a fraudulent and unlawful manner and there are no proper books or records and the Applicant has been kept in absolute dark as to the Company affairs. Under such circumstances, the Applicant prays for rectification of Register of Members of the 1st Respondent Company.

22. In relation to the Respondents, it is seen that they have already been set ex-parte by this Tribunal vide order dated 23.08.2023.

23. Heard the submissions made by the Learned Counsel for the Applicant and perused the records. The Applicant has filed the present petition under Section 59 of Companies Act, 2013 for rectification in the

Register of Members in the Register of the 1st Respondent Company. For the sake of convenience, Section 59 of the Companies Act, 2013 is extracted hereunder;

59. Rectification of register of members.—

(1) If the name of any person is, without sufficient cause, entered in the register of members of a company, or after having been entered in the register, is, without sufficient cause, omitted therefrom, or if a default is made, or unnecessary delay takes place in entering in the register, the fact of any person having become or ceased to be a member, the person aggrieved, or any member of the company, or the company may appeal in such form as may be prescribed, to the Tribunal, or to a competent court outside India, specified by the Central Government by notification, in respect of foreign members or debenture holders residing outside India, for rectification of the register.

(2) The Tribunal may, after hearing the parties to the appeal under sub-section (1) by order, either dismiss the appeal or direct that the transfer or transmission shall be registered by the company within a period of ten days of the receipt of the order or direct rectification of the records of the depository or the register and in the latter case, direct the company to pay damages, if any, sustained by the party aggrieved.

(3) The provisions of this section shall not restrict the right of a holder of securities, to transfer such securities and any person acquiring such securities shall be entitled to voting rights unless the voting rights have been suspended by an order of the Tribunal.

(4) Where the transfer of securities is in contravention of any of the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Securities and Exchange Board of India Act, 1992 (15 of 1992) or this Act or any other law for the time being in force, the Tribunal may, on an application made by the depository, company, depository participant, the holder of the securities or the Securities and Exchange Board, direct any company or a depository to set

right the contravention and rectify its register or records concerned.

(5) If any default is made in complying with the order of the Tribunal under this section, the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees, or with both.

24. The Applicant in the present Petition has sought for the following reliefs;

Pass such order and directions under Section 59 of the Companies Act, 2013 for rectification of the Register of members of M/s. Renewable Energy Engineering Equipments Private Limited and further rectify the shareholding pattern of the Company by incorporating the petitioner's name as he is entitled to 700 equity shares and for transmission of proportionate shares as legal heir in respect of his son Mr P Prabhakar Chowdry's share of 12,000 equity shares in the 1st Respondent Company.

25. In respect of entitlement of 700 shares in the name of the Applicant, the Applicant has filed last available balance sheet of the 1st Respondent Company.

26. The Applicant was holding 5,500 shares in the 1st Respondent Company. He had transferred 3000 shares to his daughter-in-law Mrs. Lakshmi, who is the wife of Prabhkar Chowdary and transferred 1850

shares to his son Mr. Prabhakar Chowdary on 23.11.2001 and the remaining 700 shares are still lying in the name of the Applicant. Even the shareholding pattern of the 1st Respondent Company during the years 2001 to 2004 shows that the Applicant was holding 700 shares. However, from the financial statements filed with the RoC for the Financial Year 2017 – 2018 onwards, the shareholding pattern of the 1st Respondent Company does not include the 700 shares standing in the name of the Applicant.

27. In respect of the transmission of 12,000 shares standing in the name of the son of the Applicant viz. P Prabhakar Chowdry, it is seen that the said Prabhakar Chowdry is married and is survived by his wife and daughter, who are Class I legal Heirs. Hence the Applicant, who is the father of Mr. Prabhakar Chowdry and comes under Class II Legal heir cannot claim any inheritance from the shares held by his son. Thus, the prayer of the Applicant to the extent seeking transmission of proportionate shares as legal heir in respect of his son Mr P Prabhakar Chowdry's share of 12,000 equity shares in the 1st Respondent Company cannot be granted.

28. In the light of the discussions as made above, in terms of Section 59(2) of the Companies Act, 2013 we direct the 1st Respondent Company to transfer 700 shares in favour of the Applicant within a period of 10 days from the date of this order. The 1st Respondent Company is also directed to make necessary rectification in the Register of Members maintained by it.

29. With the above said directions, CP(CA)/45(CHE)/2022 stands **disposed of.**

-Sd-

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

Raymond

-Sd-

SANJIV JAIN
MEMBER (JUDICIAL)