

**IN THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO  
TRANSACTIONS IN SECURITIES) ACT, 1992  
MISCELLANEOUS APPLICATION NO. 14 OF 2020**

Sibaji Basu ... Applicant  
vs.  
The Custodian ... Respondents

Mr. Gandhar Raikar a/w. Ms. Shilpa Bhate i/b. M/s.Leena Adhvaryu & Associates for the Custodian.

Mr. Ashwin Mehta for Notified Parties.

Mr. Vipul Shukla for Respondent nos. 2 and 3.

**CORAM : A.K. MENON, J.  
Judge, Special Court  
DATE : 23<sup>rd</sup> April, 2021  
(Through Video Conference)**

**P.C. :**

1. This is an application seeking certification of shares of Reliance Industries Limited. The applicant claims that he had purchased 600 shares of the company @ Rs.148/- per share from respondent no.4 – the Stock broker for an amount of Rs.88800/-. He further states that he had also sold 242 shares of ITC Limited @ Rs.364.50 per share amounting to Rs.88,209/-. According to the applicant the amount receivable by him as consideration for sale of the ITC shares was adjusted against the amount owed by him for

purchase of shares of the company. That upon adjustment a balance of Rs.591/- was payable to respondent no.4. This amount he claims to have paid in Cash on 18<sup>th</sup> February, 1992 itself. The shares were purchased on 18<sup>th</sup> February, 1992. It is contended that respondent nos. 5 and 6 were the sellers at the time were notified under the TORTS Act and hence the shares were treated as tainted shares.

2. The application has set out the facts leading up to request of certification. He claims he was not aware of all the formalities to be complied with. Belated though it is, the application may be allowed. In support of the application. He has furnished several documents which has led the Custodian to file a report dated 12<sup>th</sup> February, 2021. The company has also filed an affidavit dated 8<sup>th</sup> February, 2021 wherein the company confirms that the original shares were cancelled and duplicate shares have been issued during the year 2016 and compliance of order passed in MA/37/2014. The company also confirms that the shares in question have subsequently been dematerialised and defendants have already been paid by the company and credited to their respective accounts. The affidavit sets out that all particulars required by the Custodian have been provided. The Custodian has taken into account this affidavit in his certification report.

3. The applicant has filed affidavit of service dated 19<sup>th</sup> November, 2020 confirming service on all the respondents. Mr. Mehta who appears on behalf of respondent no. 5 to 7 - notified parties confirms that he has no objection to the application being allowed in view of the documents having been submitted and the contents of the certification report. The Custodian has also filed the original documents received by his office in the registry that reveals that the original statement of account dated 18<sup>th</sup> February, 1992 does record the fact of sale of ITC shares for Rs.88,209/- and the purchase of company shares for Rs.88800/- leaving a balance of Rs. 591/- due to the Stock Broker- respondent no.5. This amount is seen to have been paid in cash on 20<sup>th</sup> February, 1992 since there is an endorsement on the statement of account acknowledging receipt of Rs.591/- on behalf of M/s. P. Jalan and Co, the Stock brokers. It is signed by the firms accountant and for the firm itself. Since the original is on record this to be read with original bill no. 44 dated 18<sup>th</sup> February, 1992 which sets out the distinctive numbers of the 600 shares.

4. Mr. Raikar on behalf of the Custodian confirms the correctness of these figures. He states that the Custodian has since received credit of 600 shares and these have been dematerialised. Report of the Custodian dated 12<sup>th</sup> February, 2021 has been perused. Mr. Raikar has taken me through the list of documents submitted and the fact that the Custodian is satisfied with the

bonafides of the applicant. In view of the report of the Custodian read with affidavit of the company, I pass the following order :

- (i) Application is allowed in terms of prayer clause (a) and (b).
- (ii) It is clarified that the blanks contained in prayer clause (a) are not relevant since shares are now dematerialised.
- (iii) Application is disposed in the above terms.
- (iv) The Custodian shall collect the original documents from the registry at his earliest convenience.

**(A.K. MENON, J.)**