

(page 120/c) wherein it is shown that the Appellant holds 21 equity shares of Rs.100/- each, fully paid-up i.e., 50% of the share capital of company, which was subsequently increased to 1800 equity shares. He further submits that the photocopy of the share certificates of Appellant, reproduced by Respondent, dated 24.6.2017, purported to have been transferred by the Appellant in the year 1990 are forged and fabricated, as apparent from the face of it. It was further contended that the Appellant never signed any requisite form in terms of Section 108 of the Companies Act, 1956 transferring his shares to any person. The Respondent also failed to produce any Transfer Deed. According to Ld. Counsel for the Appellant, they had no knowledge of this misdeed and having come to know of this in the year 2013, moved a petition before the Ld. Tribunal under Section 397 and 398 of the Companies Act, 1956 alleging 'oppression' on the part of the Respondent.

3. As noticed, the Respondent filed the C.A. No. 266 of 2013 challenging the maintainability of the petition on the ground that the Appellant is not a shareholder. Ld. Tribunal accepted the submission and after deliberation of detailed argument, rejected the Company Petition.

4. Ld. Counsel on behalf of the Respondent submits that the Appellant sold shares in the year 1990 and resigned as Director on 16.11.1990 which has not been contra vented by the Appellant. While the Respondent refuted the allegation that the photocopy of share certificates enclosed by them are forged and fabricated. We asked Ld. Counsel for the Appellant as to where are the original share certificates ? It has not been made clear since very beginning as to why share certificates of the Petitioner/Appellant is not with him if he has not sold the share certificates. Record also suggest that the share certificates stood transferred in the year 1990 when Appellant resigned as Director.

5. Insofar as the fabrication or forgery of the share certificate is concerned, the Tribunal or this Appellant Tribunal cannot give any finding on such issue, though it is open to the Appellant to prefer any appropriate application before appropriate forum alleging forgery and other activities on the part of the Respondents.

6. As we find no merit in the appeal, it is accordingly dismissed. However, in the facts and circumstances of the case, there shall be no order as to cost.

(Justice S.J. Mukhopadhyaya)
Chairperson

(Mr. Balvinder Singh)
Member (Technical)