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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CS(OS) 65/2018 & I.A. 39920/2024

VLS COMMODITIES PRIVATE LIMITED .....Plaintiff

Through: Ms. Deepika V. Marwaha, Sr. Adv. with Ms. Madhavi Khare, Mr. Apoorva Bhumesh, Ms. Worthing Kasar, Advocates

versus

LATE SOMESH MEHROTRA THROUGH (SADHNA MEHROTRA) & ORS .....Defendants

Through: Mr. Anurag Bhatnagar, Advocates for D-1 and 2 (M:9810087078)
Mr. Yashpal Singh, Advocate with Mr. Puneet Choudhary, Advocate for D-1 & 2 with D-1 in person
Mr. Hemant Gupta, Adv for D-4, (M:9811085066)

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

O R D E R

% **07.10.2024**

I.A. 39920/2024 (Seeking clarification of order dated 23rd August, 2022)

1. The present application has been filed on behalf of defendant nos. 1 and 2 under Sections 151, 152 and 153 of Code of Civil Procedure, 1908 ("CPC") seeking clarification of the order dated 23rd August, 2022 passed in *I.A. 10373/2020.*

2. By order dated 23rd August, 2022, this Court had disposed of the application of the plaintiff under Order XXXIX Rules 1 and 2 seeking interim restraint on grant of succession certificate with respect to 23,85,530 shares of VLS Capital Ltd. The relevant portion of order dated 23rd August, 2022, reads as under:

> *"xxx xxx xxx*
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> *17. In view of the aforesaid, the present application is allowed by recording the undertaking on behalf of defendant Nos. 1 & 2 that they will maintain status quo regarding the title of the balance 23,85,530 (twenty three lakhs eighty five thousand five hundred thirty) shares till the pendency of the suit.*
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> *18. The present application is disposed of in the aforesaid terms."*

3. It is submitted that since this Court had noted that the said application had been allowed, the same is being interpreted by the Legal Representatives of Objectors before the learned Succession Court that there was a restraint on grant of succession certificate in favour of the plaintiff with respect to 23,85,530 shares and that succession proceedings had been stayed.

4. Having perused the order dated 23rd August, 2022, it is clear that this Court had not granted stay with respect to proceedings before the Succession Court. The only direction given by this Court, by way of order dated 23rd August, 2022, was that defendant nos. 1 and 2 herein, shall maintain *status quo* with regard to title of 23,85,530 shares of VLS Capital Ltd., during the pendency of the present proceedings, in view of the undertaking given by defendant nos. 1 and 2, in that regard.

5. It is to be noted that in connected proceedings being *CS(OS) 3067/2015* and *CS(OS) 3314/2015*, a Coordinate Bench of this Court vide order dated 17th July, 2019, had categorically held that the pendency of the said suits shall not come in the way of the proceedings pending before the Succession Court. Relevant portion of order dated 17th July, 2019, reads as under:

> *"xxx xxx xxx*
>
> *5. On a joint reading of the above two orders it is clear that the shares would be the subject matter of the succession certificate proceedings in CS (OS) 114/2015. However, the legal heirs of Mr. Somesh*

Mehrotra would not transfer or alienate the said shares. The question as to whether the succession certificate is to be issued in respect of the shares, would be the subject matter of the proceedings pending before the Administrative Civil Judge, Saket District Court. The present proceedings shall not come in the way of those proceedings being concluded and succession certificate, if any, being granted in accordance with law. With these observations, the orders dated 9th October, 2015 & 25th September, 2018 in CS (OS) 3067/2015 as also order dated 4th November, 2015 in CS (OS) 3314/2015 shall continue during the pendency of the present suits.

xxx xxx xxx"

6. Aggrieved by the said order, appeals being *FAO(OS) 209/2019* and *FAO(OS) 217/2019* were filed, which came to be dismissed by Division Bench of this Court vide judgment dated 02nd March, 2023, in the following manner:

"xxx xxx xxx

8. The proceedings in SS No.114/2014 (re-numbered as SS No.1554/2016), relate to determining the heirs, who succeed to the assets of late Mr. Somesh Mehrotra. Clearly, the succession certificate would not confer any better title in respect of the shares in question on Mr. Somesh Mehrotra's heirs than the title held by him. The question whether the said shares in question were been illegally transferred – which is the allegation made by the appellants in their suits – is not a question that is required to be decided in the said proceedings.

9. The present appeal proceeds on the erroneous premise that the observations made by the learned Single Judge in the first sentence of paragraph no.5 (as noted above) forecloses their rights in the suits filed by them. This understanding is clearly erroneous. The learned counsel appearing for the respondents has also clarified that this is not the understanding of the respondents as well.

10. The question as to who would inherit the assets of late Mr. Somesh Mehrotra is a subject matter of SS No.1554/2016 and not dispute regarding the title of the shares, which is a subject matter of the suits in question.

11. We find merits in the contention of the respondents that the appellants have no real grievance and that they have preferred the present appeal only to further protract the proceedings and the same should be dismissed with costs.

> *12. The appellants have premised the present appeal on an unsustainable reading of the impugned order and on an illusionary grievance.*
>
> *13. The appeals are, accordingly, dismissed with costs quantified at ₹50,000/- and the same shall be paid to the contesting respondent within a period of two weeks from today."*

7. Thus, the learned Division Bench categorically held that the question as to who would inherit the assets of Late Mr. Somesh Mehrotra, is subject matter of proceedings before the Succession Court. The Division Bench did not interfere with the order passed by the learned Single Judge in connected proceedings, i.e., *CS(OS) 3067/2015* and *CS(OS) 3314/2015*, wherein, it was held that the said proceedings shall not come in the way of the proceedings before the Succession Court, being concluded.

8. With the aforesaid clarification and observation, the present application is disposed of.

CS(OS) 65/2018

9. List before the Roster Bench on 11th November, 2024.

MINI PUSHKARNA, J

OCTOBER 7, 2024

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