IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – 1, AHMEDABAD

ITEM No.301
Appeal/3(AHM)2023

Under Sections 58 & 59 Co. Act, 2013

IN THE MATTER OF:

Minaxi Madhookar Kothary (Legal Heir of Madhookar R Kothary) **.....Applicant**
V/s **.....Respondents**
EB5 India Advisory Pvt Ltd & Ors

ITEM No.302
Appeal/5(AHM)2023

Under Sections 58 & 59 Co. Act, 2013

IN THE MATTER OF:

Minaxi Madhookar Kothary (Legal Heir of Madhookar R Kothary) **.....Applicant**
V/s **.....Respondents**
Expat NRI Solutions Pvt Ltd & Ors

Order delivered on: 30/10/2026

C O R A M:

MR. SHAMMI KHAN, HON'BLE MEMBER (J)
MR. SANJEEV SHARMA, HON'BLE MEMBER (T)

C O M M O N O R D E R
(Hybrid Mode)

The case is fixed for pronouncement of order. The common order is pronounced in the open court, vide separate sheet.

-SD-
SANJEEV SHARMA
MEMBER (TECHNICAL)

-SD-
SHAMMI KHAN
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, COURT- I, AHMEDABAD

Comp. Appeal No. 3 (AHM) of 2023
AND
Comp. Appeal No. 5 (AHM) of 2023

In the matter of: Minaxi Madhookar Kothary

[Company Appeals seeking relief under Sections 58 and/or 59 of the Companies Act, 2013, read with the applicable provisions of the National Company Law Tribunal Rules, 2016]

Comp. Appeal No. 3 of 2023

Minaxi Madhookar Kothary
Legal Heir of Madhookar R. Kothary
PO Box 2012, Ruwi Post Office,
Muscat, PC- 112
Oman

.... Appellant

VERSUS

1. **EB5 India Advisory Private Limited**
   A – 1002, 10TH Floor,
   Solitaire Corporate Park
   Above Ford Showroom,
   Near Divya Bhaskar, S.G. Road
   Ahmedabad – 380015

2. **Niraj Kishorebhai Doshi**
   Tara, 75, Ntan Nagar,
   Kalawad Road
   Rajkot – 360005

3. **Kishorebhai Prabhashankarbhai Doshi**
   Tara, 75, Ntan Nagar,
   Kalawad Road

Rajkot – 360005

Comp. Appeal No. 5 of 2023

Minaxi Madhookar Kothary
Legal Heir of Madhookar R. Kothary
PO Box 2012, Ruwi Post Office,
Muscat, PC-112,
Oman

...Appellant

VERSUS

1. **Expat NRI Solutions Private Limited**
   Doshi Corporate Park,
   Near Utkarsh School,
   Opp. Satnam Hospital,
   Akshar Marg End, Off.
   Amin Marg, Rajkot - 360001

2. **Niraj Kishorbhai Doshi**
   Tara, 75, Nutan Nagar,
   Kalawad Road,
   Rajkot - 360005

3. **Kishorbhai Prabhashankarbhai Doshi**
   Tara, 75, Nutan Nagar,
   Kalawad Road,
   Rajkot - 360005

...Respondents

Order Pronounced On 30.10.2026

C O R A M :

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SANJEEV SHARMA, HON'BLE MEMBER (TECHNICAL)

A P P E A R A N C E :

For the Applicants : Mr. Monaal Davawala, Advocate
For the Respondents : Mr. Tirth Nayak, Advocate

COMMON ORDER

(*Per*: Bench)

1. These appeals concern the alleged wrongful recording of shares formerly held by Late Shri Madhookar Kothary in the Registers of Members of the Respondent Companies. The Appellant seeks rectification of the said registers and consequential reliefs in respect of the disputed shares, corporate actions and dividends. The maintainability and scope of relief in each appeal shall be examined with reference to the applicable provisions of the Companies Act, 2013, and the material available on record.

Comp. Appeal No. 3 of 2023:-

The Appellant in Comp. Appeal No. 3 of 2023 is seeking following reliefs: -

1) *Declare that the appellant is the undisputed shareholder of 7,000 shares of the Company having face value of Rs. 10 /- each along with shares issued during corporate action as well as dividend declared by company since 2011, if any; and/or*

2) *Direct the Respondent Company to rectify the register of members and enter the name of Smt. Minaxi M. Kothary as the member of the company in view of transmission of 7,000 shares having face value of Rs. 10/- each along with shares issued during corporate actions since 2011, if any; and/or*

3) *To condone delay, if any, in filing this appeal, and/or*

4) *Pass such other and further reliefs in the interest of justice as this Hon'ble Tribunal may deem fit; and/or*

5) *Provide costs for preferring this appeal.*

Comp. Appeal No. 5 of 2023

The Appellant in Comp. Appeal No. 5 of 2023 is seeking following reliefs: -

1) *Declare that the appellant is the undisputed shareholder of 1,455 shares of the Company having face value of Rs. 100/. each along with shares issued during corporate action as well as dividend declared by company since 201 1, if any; and/or*

2) *Direct the Respondent Company to rectify the register of members and enter the name of Smt. M,inaxi M. Kothary as the member of the company in view of transmission of 1,455 shares having face value of Rs. 100/- each along with shares issued during corporate actions since 201 1, if any; and/or*

3) *To condone delay, if any, in filing this appeal, and/or*

4) *Pass such other and further reliefs in the interest of justice as this Hon'ble Tribunal may deem fit; and/or*

5) *Provide costs for preferring this appeal.*

2. Both the appeals are filed by Mrs. Minaxi Madhookar Kothari and the two out of three respondents in both appears are same. The third respondent is the company

whose share ownership is under dispute. The facts and pleadings in both the appeals are almost identical therefore we decide the issues in both the appeals in this combined order.

3. Facts of the case

Comp. Appeal No. 3 of 2023

3.1. The Appellant submits that she is the legal heir of Late Mr. Madhookar Kothary, who had acquired 7,000 shares of the Company, each having a face value of Rs. 10/-, for a consideration of Rs. 17,50,000/- on 11.07.2011. It is further submitted that, following his demise on 24.10.2011, the directors of the Company, namely Respondent Nos. 2 and 3, Mr. Niraj Doshi and Mr. Kishore Doshi, transferred the aforesaid shares equally amongst their family members in January 2012.

3.2. In support of her submissions, the Appellant has relied upon the proof of allotment of shares and payment of consideration, collectively annexed as Annexure A, and the Annual Return along with the list of allottees filed by the Company with the Registrar of Companies for the financial year 2011–12, collectively annexed as *Annexure B*.

Name of the Shareholder	Date of Transfer	No. of Shares
Shrenik Doshi	4.1.2012	1,750
Utsav Doshi	4.1.2012	1,750
Tanay Doshi	4.1.2012	1,750
Pranjal Doshi	4.1.2012	1,750

3.3. The Appellant submits that the transfer of 7,000 shares belonging to Late Mr. Madhookar Kothary in favour of the family members of Respondent Nos. 2 and 3 was allegedly effected with mala fide intent, without her knowledge or consent, with a view to depriving her of her rights as the legal heir of the deceased shareholder.

3.4. It is contended that, upon the demise of Mr. Madhookar Kothary on 24.10.2011, the shares ought to have been transmitted to his legal heir by operation of law, rather than being transferred by the directors to their family members. The Appellant further submits that no legal provision authorises such transfer of shares merely on account of the death of a shareholder. She states that the aforesaid facts came to her knowledge through documents received in connection with other disputes and an ROC search conducted by her advisors in April 2019.

3.5. The Appellant further submits that, in order to secure recognition of her rights in respect of the

aforesaid shares, she issued a notice dated 25.05.2022 to the Company, which was delivered on 27.05.2022, requesting appropriate action in relation to the shares and the necessary changes in the Register of Members. A copy of the notice along with the acknowledgment of delivery was annexed to the appeal as Annexure C. However, the Company allegedly failed to respond to the said notice or take any steps to address her request.

3.6. The Appellant alleges that the Respondents, particularly the directors, have deliberately sought to exclude her from the Company and deprive her of the rights accruing from the shareholding of the deceased. Aggrieved by the alleged wrongful transfer of shares and the Company's failure to rectify its Register of Members despite notice, the Appellant has preferred the present appeal seeking directions to the Company to rectify the Register of Members and enter her name as a member in respect of the aforesaid shares, in accordance with the provisions of the Companies Act, 2013.

Comp. Appeal No. 5 of 2023

3.7. It is stated that Late Mr. Madhookar Kothary had acquired 1,455 shares of the Company, each having a face value of Rs. 100/-, for a consideration of Rs. 36,75,000/- on 11.07.2011. A copy of the proof of allotment of the aforesaid shares and proof of

payment of the consideration of Rs. 36,75,000/- to the Company have been annexed to the present Appeal and collectively marked as "Annexure A".

3.8. The Appellant further submits that Late Mr. Madhookar Kothary passed away on 24.10.2011. It is alleged that immediately thereafter, in January 2012, Respondent Nos. 2 and 3, namely, Mr. Niraj Doshi and Mr. Kishore Doshi, being the directors of the Company, transferred the aforesaid 1,455 shares held by Late Mr. Madhookar Kothary and distributed the same equally amongst their family members in the following manner:

Name of the Shareholder	Date of Transfer	No. of Shares
Shrenik Doshi	4.1.2012	364
Utsav Doshi	4.1.2012	364
Tanay Doshi	4.1.2012	363
Pranjal Doshi	4.1.2012	364

The Annual Return of the Company for the financial year 2011–12, along with the list of allottees, as filed by the Company with the Registrar of Companies, is annexed to the present Appeal and collectively marked as "*Annexure B*".

4. In response to the above averments made by the applicants, an **affidavit-in-reply** was filed by **Respondent**

No.1 Company on 18.05.2023 vide Inward Diary No. D 1829, denying all the averments made by the applicant and thereby making following submissions: -

4.1. At the outset, the Respondents contend that the Appeal is barred by limitation, as the shares in question were transferred in January 2012 and the names of the transferees were reflected in the Company's Balance Sheet for the financial year 2012–13. It is submitted that the Appellant initiated the present proceedings in December 2022, after a delay of approximately ten years, without furnishing any satisfactory explanation. Relying upon Sections 58, 59 and 433 of the Companies Act, 2013, read with Article 137 of the Limitation Act, 1963, the Respondents contend that the Appeal is liable to be dismissed on the ground of delay and laches.

4.2. The Respondents further allege that the present proceedings have been instituted as a counterblast to the removal of Shri Vishal Madhookar Kothary, son of the Appellant, from the Board of Directors of Muscat Polymers Private Limited pursuant to a resolution dated 04.06.2022. It is submitted that the said removal, along with other disputes concerning the affairs of the said company, is the subject matter of Company Petition No. 40 of 2020, Company Application No. 15 of 2022 and connected proceedings.

4.3. The Respondents also contend that the Appeal is defective for non-joinder of necessary parties, as Late Mr. Madhookar Kothary was survived by his wife, the Appellant, his son, Shri Vishal Kothary, and his daughters, Smt. Shital Sheth and Ku. Shailja Kothary. It is submitted that the Appellant is not the sole legal heir of the deceased and that the persons in whose favour the shares were transferred, namely Shri Shrenik Rajiv Doshi, Shri Utsav Rajiv Doshi, Shri Pranjal Niraj Doshi and Shri Tanay Niraj Doshi, have not been impleaded as parties to the proceedings. According to the Respondents, Respondent Nos. 2 and 3 are not the beneficiaries under the Will and have, therefore, been wrongly impleaded.

4.4. On the question of jurisdiction, the Respondents submit that the reliefs sought by the Appellant involve adjudication of disputed questions of title, the validity and effect of the alleged Will, and allegations of fraud, which, according to them, fall beyond the scope of the summary rectification jurisdiction of this Tribunal under Section 59 of the Companies Act, 2013. Placing reliance upon the judgment of the Hon'ble Supreme Court in Ammonia Suppliers Corporation (P) Ltd. v. Modern Plastic Containers Pvt. Ltd., (1998) 7 SCC 105, the Respondents contend that where the dispute involves serious and complex questions of title requiring detailed examination of

evidence, the parties ought to be relegated to the competent civil court.

4.5. On merits, the Respondents submit that the Kothary and Doshi families maintained close relations between 1998 and 2011 and that, following the demise of Mr. Madhookar Kothary on 24.10.2011, the shares held by him in Respondent No. 1 Company were required to be transmitted in accordance with his Will in favour of Shri Shrenik Rajiv Doshi, Shri Utsav Rajiv Doshi, Shri Pranjal Niraj Doshi and Shri Tanay Niraj Doshi. It is specifically contended that the Appellant herself, by a letter dated 30.12.2011, informed the Company that the shares were to be transmitted in favour of the aforesaid persons in accordance with the Will. The Respondents further rely upon an Affidavit of Indemnity dated 02.01.2012, stated to have been furnished by the Appellant, pursuant to which the Company undertook the process of transferring the shares in the names of the aforesaid beneficiaries.

4.6. The Respondents allege that the Appellant has suppressed the aforesaid material documents, including the Will and her letter dated 30.12.2011, and has approached this Tribunal without full disclosure of the relevant facts. They deny that the transfer of shares was effected fraudulently or without the Appellant's consent and assert that the

transfer was carried out at her own request. Accordingly, the Respondents contend that the Appellant is precluded from challenging the said transfer and that the Appeal is liable to be dismissed on the grounds of limitation, non-joinder of necessary parties, lack of jurisdiction and suppression of material facts. The relevant extract of the said letter reads as follows: -

"The above-mentioned shares were the separate and self-acquired property of the deceased. As per the will of late Shri Madhookar Ramniklal Kothary, Said shares are to be equally bequeathed to 1)Shrenik Rajiv Doshi 2)Utsav Rajiv Doshi 3) Pranjal Niraj Doshi 4) Tanay Niraj Doshi. We hereby agree and shall have no objection to the transmission of the said equity shares standing registered in the books or your Company equally in the name 1)Shrenik Rajiv Doshi 2) Utsav Rajiv Doshi 3) Pranjal Niraj Doshi 4) Tanay Niraj Doshi. We request you to transmit the aforesaid equity shares equally in the name of the 1) Shrenik Rajiv Doshi 2) Utsav Rajiv Doshi 3) Pranjal Niraj Doshi 4) Tanay Niraj Doshi without production of probated order."

DULY SIGNED BY:-



4.7. The Respondents further submit that the Appellant had furnished an Affidavit of Indemnity dated 02.01.2012, pursuant to which the shares of Late Mr. Madhookar Kothary were transferred in favour of Shri Shrenik Rajiv Doshi, Shri Utsav Rajiv Doshi, Shri Pranjal Niraj Doshi and Shri Tanay Niraj Doshi, based on the Appellant's letter dated 30.12.2011. A copy of the Affidavit of Indemnity has been annexed as *Annexure C*.

4.8. It is alleged that the Appellant has suppressed the material facts and failed to place the Will of the deceased on record. The Respondents further contend that the aforesaid transferees, being the beneficiaries under the Will, have not been impleaded as parties, thereby rendering the Appeal defective for non-joinder of necessary parties.

4.9. The Respondents deny the allegations of mala fide intention, fraudulent transfer and exclusion of the Appellant from the Company, asserting that the transfer was effected at the Appellant's own request and with her knowledge and consent. They further deny that the shares were required to be transmitted to the Appellant solely on the basis of the ROC search.

4.10. The Respondents maintain that the Appellant is precluded from challenging the transfer, having allegedly requested the same, and contend that she

has approached this Tribunal with unclean hands by suppressing material documents and facts. Accordingly, the Respondents seek dismissal of the Appeal in limine.

5. That the **Affidavit in Rejoinder** on behalf of the Appellant was taken on record on 30.01.2024 vide Inward Dairy No. D 745. Wherein following submission were made in :-

5.1. With respect to the objection regarding limitation, the Appellant submits that she was neither a shareholder nor a director of the Company and, therefore, had no knowledge of the alleged transfer of shares in January 2012. It is stated that she first became aware of the transfer upon an ROC search conducted through her advisors in April 2019. The Appellant further submits that, after acquiring such knowledge, she repeatedly sought clarification from the Company and the alleged shareholders through emails and personal visits, but received no response. In support thereof, she has relied upon emails dated 17.10.2021 and 26.01.2022, annexed as Annexure R-1. She accordingly disputes the plea of limitation raised by the Respondents and contends that the delay ought to be considered in light of the date on which the alleged transfer came to her knowledge.

5.2. The Appellant further denies that the present proceedings were instituted as a counterblast to the

removal of her son, Shri Vishal Madhookar Kothary, from the Board of Directors of Muscat Polymers Private Limited. It is submitted that she had raised queries regarding the alleged transfer of shares through emails in 2021 and 2022, prior to the alleged events relied upon by the Respondents to attribute mala fide motives to the present proceedings.

5.3. With regard to the objection of non-joinder of necessary parties, the Appellant submits that the present Appeal concerns the alleged wrongful acts of the Company and its directors in transferring the shares to members of the directors' families instead of transmitting them to the rightful beneficiary. She asserts that she is the sole beneficiary of the movable and immovable properties of Late Mr. Madhookar Kothary and disputes the contention that all the legal heirs are necessary parties to the present proceedings.

5.4. With respect to the jurisdiction of this Tribunal, the Appellant contends that the Respondents' objections are intended to delay the proceedings by seeking to relegate the parties to a civil court. She further submits that the Respondents have failed to distinguish between transfer and transmission of shares.

5.5. According to the Appellant, transmission takes place by operation of law upon the death of a shareholder, and Section 56 of the Companies Act, 2013, recognises the Company's authority to register such transmission upon receipt of the requisite intimation. It is contended that, unless the alleged transferees are established to be the legal heirs of the deceased, there was no basis for transmitting the shares in their favour.

5.6. The Appellant further disputes the Respondents' reliance upon the alleged Will and the Affidavit of Indemnity dated 02.01.2012. She submits that, although the Respondents have claimed that the shares were dealt with in accordance with the Will of Late Mr. Madhookar Kothary, the same was not produced by them along with their reply.

5.7. The Appellant has placed on record a copy of the Will dated 18.10.2011, along with its English translation, as Annexure R-2, and contends that Mr. Rajiv Doshi, the executor of the Will, had obtained a probate order from the competent civil court. She questions why the executor did not directly communicate the relevant directions under the Will to the Company.

The Relevant Extract of the Will is herein below:-

6. My Executor do clear whatever expenses incurred during my ailment and if anything is outstanding from my propertr. In case need arises for obtaining probate or succession certificate

in respect of my properties, then the Executor has to obtain the same incurring expenses from my properties for that purpose.

7. That my Executor has to retain the remaining properties with him which are left out after making the arrangement as above after my death and left out after making its arrangement as per the opinion of the Executor and I hereby hold to make arrangement of all those properties as under.

8. That the properties of my ownership are in India in which, the below mentioned movable and immovable properties are there mainly,

- Gold ornaments and jewellery

- Flat and garage of Nilkant Villa, Ghatkopar, Mumbai

- Investments in Companies

- Investment in mutual funds, share and Securities

- Insurance Policies

- Bank balance and fixed deposits'

- Household articles

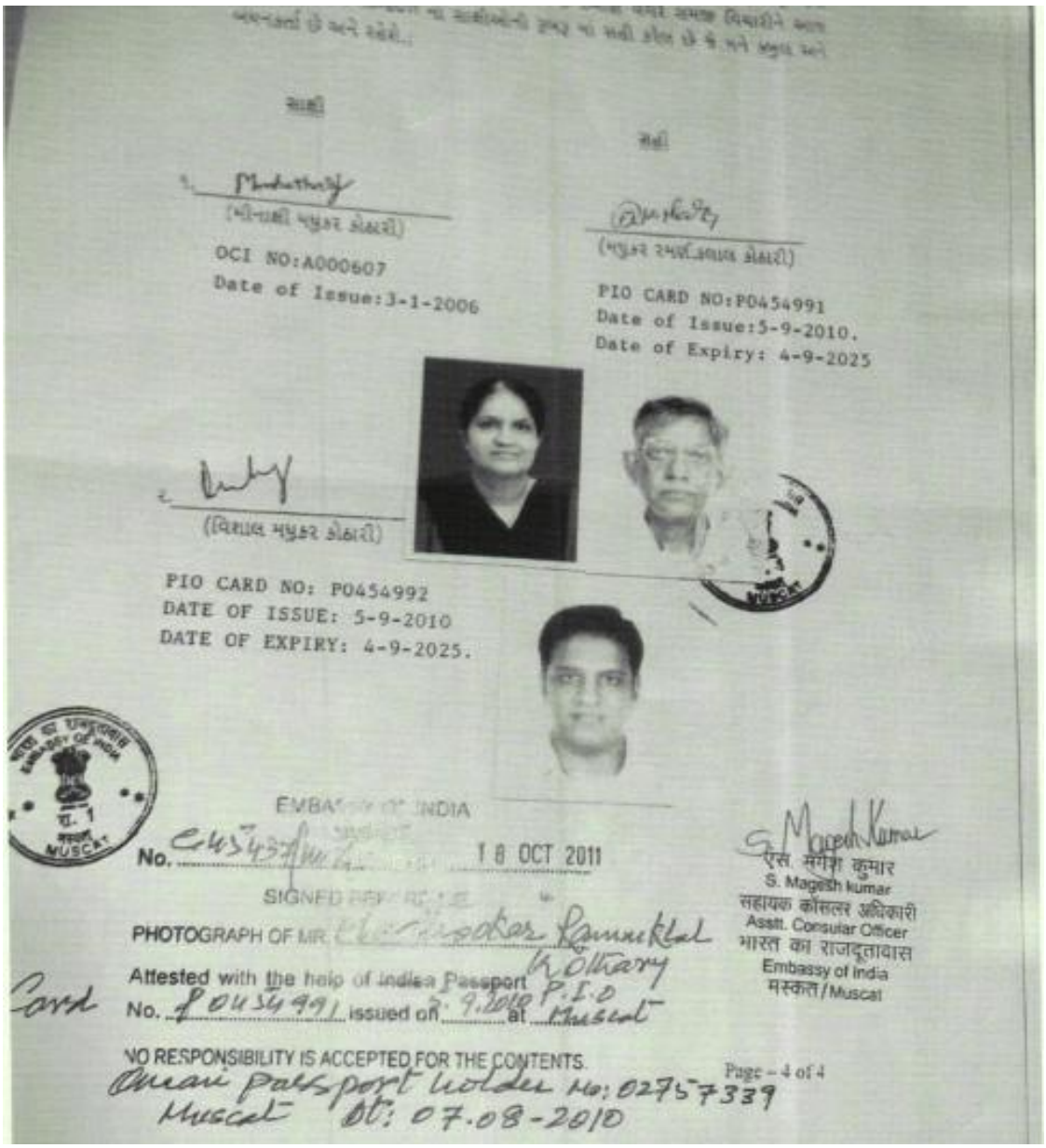
- Cash

- Other dues, collection, loan advances' etc

9. After clearing all the liabilities after my death or making arrangement for clearing the same, I hereby hold that whatever properties remain is being bequeathed to my wife Smt. Minakshi Madhukar Kothari.

10. If there is any movable or immovable property in my name or standing in my name except the abovestated movable and immovable properties, I hold to bequeath the same to my wife Minaskhi.

DULY SIGNED :-


OCI NO:A000607
Date of Issue:3-1-2006

PIO CARD NO:P0454991
Date of Issue:5-9-2010.
Date of Expiry: 4-9-2025

PIO CARD NO: P0454992
DATE OF ISSUE: 5-9-2010
DATE OF EXPIRY: 4-9-2025.

EMBASSY OF INDIA
No. C45437 18 OCT 2011
PHOTOGRAPH OF MR. Minaxi Madhukar Kothary
Attested with the help of Indian Passport P.I.O Card
No. P0454991 issued on 9.2010 at Muscat
NO RESPONSIBILITY IS ACCEPTED FOR THE CONTENTS.
Page - 4 of 4
Omani passport holder No: 02757339
Muscat DT: 07.08-2010

S. Magesh Kumar
सहायक कौंसलर अधिकारी
Asstt. Consular Officer
भारत का राजदूतावास
Embassy of India
मस्कत / Muscat

5.8. The Appellant also disputes the genuineness of the Affidavit of Indemnity dated 02.01.2012, alleging that one of its purported signatories, Smt. Shital Sheth, had already left India on 01.01.2012. In support of this contention, she has relied upon a copy of Smt. Shital Sheth's passport booklet, annexed as *Annexure R-3.*

5.9. The Appellant further submits that the Respondents have taken inconsistent stands by asserting, on the

one hand, that the shares were transmitted in accordance with the Will and, on the other, that the transfer was effected pursuant to her letter dated 30.12.2011. She contends that these inconsistencies cast doubt upon the explanation furnished by the Respondents regarding the manner in which the shares were dealt with.

5.10. Accordingly, the Appellant has prayed that this Tribunal direct Respondent No. 1 Company to rectify its Register of Members by entering the name of Smt. Minaxi M. Kothary as a member in respect of the 7,000 shares of ₹10/- each held by Late Mr. Madhookar Kothary, together with any additional shares issued pursuant to corporate actions since 2011, if any, and further direct the Company to pay the dividends declared in respect of the said shares since 2011.

6. That the **Affidavit in Sur - Rejoinder** on behalf of the Appellant was taken on record on 23.04.2024 vide Inward Dairy No. D 3472. Along with Purshish seeking condonation of delay in filing. Wherein following submission were made in :-

6.1. The Respondent contends that the Appellant has, for the first time, produced an alleged Will dated 03.10.2011 of Late Mr. Madhukarbhai Ramniklal Kothari, claiming that the shares held by the

deceased in Respondent No. 1 Company were bequeathed to her. It is submitted that the said Will was neither furnished to the Company nor produced before this Tribunal prior to the filing of the Rejoinder Affidavit. According to the Respondent, if such a Will had existed, the Appellant ought to have produced it before the Company at the relevant time and taken appropriate steps on its basis.

6.2. The Respondent alleges that the production of the document after approximately thirteen years from the demise of the deceased raises serious doubts regarding its genuineness and characterises it as fabricated and manufactured as an afterthought. Accordingly, the Respondent objects to the introduction of the said document at the rejoinder stage and submits that its production ought not to be permitted.

6.3. The Respondent further submits that the Appellant, along with the other legal heirs of Late Mr. Madhookar Ramniklal Kothari, had executed and submitted a letter dated 30.12.2011 to the Company, expressly requesting transmission of the shares in favour of the beneficiaries under the Will of the deceased. It is stated that the said letter was signed by the Appellant, Shri Vishal Kothary, Smt. Shital Sheth and Smt. Shailja Kothary. A copy of the letter had previously been filed by the Respondent along

with its Affidavit dated 13.05.2023 and marked as Annexure B therein.

6.4. The Respondent further asserts that, along with the said letter, the Appellant had furnished a supplementary Will dated 05.10.2011 of Late Mr. Madhukar Ramniklal Kothari, under which the 40,000 shares held by the deceased in Respondent No. 1 Company, then known as Shiv Shyam Auto Leasing and Finance Private Limited, were bequeathed in favour of the beneficiaries associated with Respondent Nos. 2 and 3. A copy of the supplementary Will has been annexed to the present affidavit as *Annexure A*.

The Relevant Extract of the Will is herein below:-

2. I am executing this supplementary will for making arrangement of my below mentioned properties

- *I am possessing shares of the below mentioned company;*

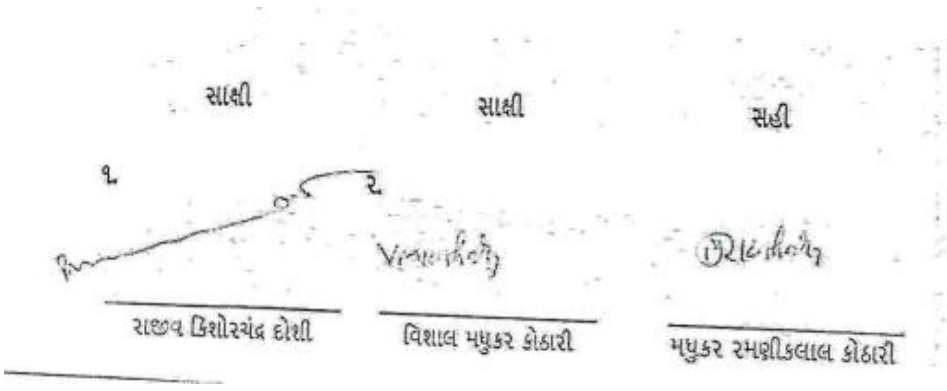
Name of company	Numbers of share
Nexas Monatizing Private Limited	7000
Virtual concept Pvt Ltd	1455
Shiv Shyam Auto Leasing and finance private Limited	40000
Progo Management Consultant Prvt Ld	30000

- *I am having family relations with Shri Kishorchandra Prabhashankar Doshi and his family since many years and he is very useful to socially or family and*

he is well-wisher of our family and as and when I myself or my family were coming to Rajkot at that time he was taking care of all of us and he has also taken care of interest of our family and while considering many years old and closed relations, I am holding to Make distribution of my aforesaid shares after my death.

- *I am holding to give afore mentioned shares to the family of Shri Kishorchandra Prabhashankar Doshi mentioned below on equal shares. 1. Ku. Pranjal Neeraj Doshi 2. Ku. Tanay Neeraj Doshi 3. Shri Shrenik Rajiv Doshi 4. Shri Utsav Rajiv Doshi*
- *This supplementary will has been executed only for afore stated property and making its arrangement and the will executed by me on 03.10.2011 relating to my property except mentioned above and making its arrangement shall be remained continued permanently.*

DULY SIGNED:-



6.5. Without prejudice to the foregoing submissions, the Respondent contends that the supplementary Will dated 05.10.2011, being subsequent to the alleged Will dated 03.10.2011 relied upon by the Appellant,

would prevail over the earlier Will. It is further submitted that the supplementary Will was relied upon by the Appellant and her family members in their letter dated 30.12.2011, pursuant to which the Company proceeded with the transmission of the shares. The Respondent emphasises that the signatures of the Appellant and the other legal heirs appearing on the said letter demonstrate their knowledge of and consent to the proposed transmission of the shares in accordance with the supplementary Will.

6.6. The Respondent further submits that the letter dated 30.12.2011 was accompanied by duly notarised Letters of Indemnity furnished by the legal heirs of Late Mr. Madhookar Ramniklal Kothari. Copies of the said Letters of Indemnity had previously been filed along with the Respondent's Affidavit dated 13.05.2023 and marked as Annexure C therein.

6.7. It is stated that the Letters of Indemnity were executed on non-judicial stamp papers purchased individually by the respective legal heirs and were duly notarised. According to the Respondent, the Company acted upon the letter, the supplementary Will and the accompanying indemnity documents in good faith and in accordance with law while transmitting the shares in favour of the beneficiaries named therein.

6.8. The Respondent maintains that there is no reason to doubt the genuineness of these documents, particularly when their validity was not challenged for more than ten years.

6.9. With regard to the Appellant's allegation that Smt. Shital Sheth, one of the signatories to the Affidavit of Indemnity, had left India on 01.01.2012, the Respondent submits that the said allegation does not, by itself, establish the invalidity of the document. It is contended that the Affidavit of Indemnity bears the signatures of all four family members, with the signature of Smt. Shital Sheth appearing at serial number three, and that the signatures of the other family members appear above and below hers.

6.10. The Respondent reiterates that the documents were duly notarised and that the Appellant has not disputed the validity of the signatures of the other signatories. On this basis, the Respondent disputes the Appellant's allegation regarding the genuineness of the indemnity documents.

6.11. The Respondent additionally submits that, even otherwise, this Tribunal, while exercising its jurisdiction under Section 59 of the Companies Act, 2013, cannot adjudicate upon the genuineness or validity of the disputed Wills, the indemnity documents or the signatures appearing thereon.

According to the Respondent, such questions require detailed examination and adjudication by a competent court of jurisdiction and fall beyond the scope of the summary rectification jurisdiction of this Tribunal. The Respondent therefore contends that the Appellant's challenge to the documents relied upon by the Company cannot be adjudicated in the present proceedings.

6.12. In view of the aforesaid submissions, the Respondent maintains that the Company acted on the basis of the documents furnished by the Appellant and the other legal heirs, that the transmission of shares was undertaken in accordance with the supplementary Will dated 05.10.2011, and that the allegations subsequently raised by the Appellant are untenable.

6.13. Accordingly, reiterating the grounds taken in its earlier Affidavit-in-Reply and reserving the right to advance further submissions during the hearing, the Respondent prays that the present Appeal be dismissed with heavy costs.

7. That the **Further Affidavit** on behalf of the Appellant was taken on record on 09.09.2024 vide Inward Dairy No. D 6894. Wherein following submission were made in :-

7.1. The Appellant, through her Power of Attorney holder, has filed a further affidavit in response to the Sur-Rejoinder filed by the Respondents, alleging that the

Sur-Rejoinder has been filed to justify the inconsistent stands taken in the earlier Affidavit-in-Reply and to defend the alleged fabrication of documents. The Appellant contends that the Respondents have attempted to complicate the proceedings by relying upon disputed documents while simultaneously asserting that their genuineness can be adjudicated only by a competent civil court.

7.2. The Appellant submits that she does not wish to prolong the proceedings by filing separate applications and requests this Tribunal to take suo motu cognizance of the alleged false statements and documents, if deemed appropriate.

7.3. The Appellant further submits that Mr. Rajiv Doshi, the brother of Respondent No. 2 and the executor of the Will of Late Mr. Madhookar Kothary dated 18.10.2011, had approached the competent Civil Court at Rajkot in his capacity as executor, relying upon the said Will, pursuant to which a probate order was passed on 25.04.2013.

7.4. The Appellant questions why the Respondents did not produce the alleged supplementary Will dated 05.10.2011 before the executor or raise appropriate objections before the Civil Court at Rajkot, particularly when the Respondents now rely upon the said document to justify the transfer of shares. In

support of her submissions, the Appellant has placed on record a copy of the application filed by Mr. Rajiv Doshi and the order dated 25.04.2013 passed by the Civil Court at Rajkot, collectively annexed as Annexure R-1.

7.5. The Appellant further disputes the genuineness of the alleged Will dated 05.10.2011, contending that the Will dated 18.10.2011, being subsequent in point of time, ought to prevail over the earlier document relied upon by the Respondents. It is alleged that the purported Will dated 05.10.2011 is neither notarised nor signed on every page or by witnesses, unlike the Will dated 18.10.2011, on the basis of which probate was granted by the Civil Court at Rajkot.

7.6. The Appellant alleges that the document appears to have been fabricated and calls upon this Tribunal to permit the Respondents to withdraw the same, failing which appropriate suo motu action, including proceedings for alleged perjury and filing of false documents, may be initiated in accordance with law.

7.7. The Appellant also points out an alleged inconsistency in the Respondents' explanation regarding the transfer of shares. It is submitted that, in the earlier Affidavit-in-Reply, the Respondents attributed the transfer to the letter of indemnity dated 30.12.2011, whereas in the Sur-Rejoinder, they seek to justify the transaction on the basis of

the alleged supplementary Will dated 05.10.2011. According to the Appellant, these contradictory explanations cast serious doubt upon the Respondents' version of the events and the authenticity of the documents relied upon by them.

7.8. In conclusion, the Appellant reiterates that Late Mr. Madhookar Kothary passed away on 24.10.2011 and asserts her entitlement, as his legal heir, to recognition as the shareholder in respect of 1,455 shares of the Respondent Company, each having a face value of ₹100/-, together with any additional shares issued pursuant to corporate actions and dividends declared by the Company since 2011.

7.9. A copy of the death certificate of Late Mr. Madhookar Kothary has been annexed to the affidavit as Annexure R-1, as described in the Appellant's pleadings. The Appellant accordingly reiterates her request for appropriate directions for rectification of the Register of Members and reserves her right to supplement or amend her submissions and file further affidavits, as may be necessary.

8. That the **Affidavit in Reply** of the Respondent No. 1 to the Further Affidavit on behalf of the Appellant was received on 17.10.2024 vide Inward Dairy No. D 7880. Wherein following submission were made in :-

8.1. The Respondent denies the allegations and contentions raised by the Appellant, and submits that the present proceedings primarily concern two Wills, namely the Will dated 03.10.2011 relied upon by the Appellant and the supplementary Will dated 05.10.2011 relied upon by the Respondent.

8.2. The Respondent submits that the Will dated 03.10.2011 was executed on that date and subsequently attested by the Embassy on 18.10.2011. It is contended that the said Will primarily dealt with immovable properties and other assets, whereas the supplementary Will dated 05.10.2011 was executed specifically in respect of the shares in question and the bequest thereof in favour of the existing shareholders. The Respondent maintains that the supplementary Will was executed after the Will dated 03.10.2011 and was intended to deal separately with the shares held by Late Mr. Madhookar Ramniklal Kothari in the Company.

8.3. The Respondent further submits that there is no legal requirement for a Will to be notarised to establish its validity and that a duly signed document may constitute a valid Will, subject to compliance with the applicable legal requirements. It is contended that the Appellant and her family members had accepted and acted upon the supplementary Will and had themselves requested

the Company to transmit the shares in accordance therewith. According to the Respondent, the transmission was effected on the basis of the original Will, the letter dated 30.12.2011 submitted by the Appellant and the other legal heirs, and the accompanying Letters of Indemnity.

8.4. The Respondent also disputes the reliance placed by the Appellant on the probate proceedings before the Civil Court at Rajkot. It submits that the probate application was filed in 2012, after the shares had already been transmitted pursuant to the communication submitted by the Appellant and her family members and the Company's records had been updated accordingly. It is further contended that the probate proceedings primarily concerned the immovable properties and other assets mentioned in the Will dated 03.10.2011 and did not specifically concern the shares forming the subject matter of the present proceedings. The Respondent maintains that the probate proceedings, which were initiated by the Respondent, demonstrate that the parties' relations remained cordial and that no dispute concerning the shares was raised until 2020. On this basis, the Respondent alleges that the present proceedings are an afterthought.

8.5. The Respondent reiterates that the transmission of shares in favour of the existing holders was effected

pursuant to the notarised Letter of Indemnity, bearing the signature of the Appellant, a copy of which was previously filed as Annexure C to its Affidavit-in-Reply. It contends that the genuineness and validity of the disputed documents and signatures cannot be adjudicated upon in the summary jurisdiction of this Tribunal under Section 59 of the Companies Act, 2013. The Respondent further alleges that the Appellant's subsequent affidavit seeks to undermine the crystallised rights of the existing shareholders without establishing any legally sustainable ground for rectification.

8.6. Accordingly, the Respondent denies the remaining averments contained in paragraphs 2 to 9 of the Appellant's further affidavit, except to the extent specifically admitted, and submits that no relief is warranted in favour of the Appellant. The Respondent therefore prays that the application be dismissed in limine, with costs, while reserving its right to file a further affidavit, if necessary.

9. In pursuant to the order dated 14.11.2024, **Written Submission** was filed on behalf of Respondent No.1 on 14.10.2026 vide Inward dairy no. D 8895. Wherein relied upon following judgements :-

i. *Ammonia Supplies Corporation (P) Ltd. V/s. Modern Plastic Containers Pvt. Ltd.* (1998) 7 SCC 105

ii. *National Insurance Co. Ltd. V/s. Glaxo India Ltd.* 1999 (2) Mh.L.J. 883
iii. *Prabodh Jamnadas Kothari V/s. Vikram Jamnadas Kothari* 2013 (1) Mh.L.J. 825
iv. *Dhirubhai alias Dhirajlala H. Desai & Ors. V/s. Lataben Abuwalla & Ors.* (2016) 1 SCC 423
v. *N. Ramji V/s. Ashwath Narayan Ramji & Anr.* 2017 SCC Online Mad 37591
vi. *IFB Agro Industries Limited V/s. SICGIL India Limited & Ors.* (2023) 4 SCC 209
vii. *Chalasani Udaya Shankar & Ors. V/s. Lexus Technologies Private Limited* 2024 SCC Online SC 2451
viii. *Minaxiben Shashikantbhai Patel V/s. District Collector* 2006 SCC Online Guj 285

10. That, in compliance with the order dated 20.02.2025, the Appellant filed an **Additional Affidavit** vide Inward Diary No. D-5367, placing on record a copy of the probate order dated 25.04.2013 passed in CMA No. 810 of 2012, which was taken on record. However, the copy of CMA No. 810 of 2012, being the application for probate, was subsequently filed by the Appellant by way of a Purshish, which was rejected on the ground that the same was not duly attested or verified.

11. Vide order dated 11.12.2025 it is observed that the Applicant has filed an **Affidavit in compliance** with the order dated 07.08.2025 on 08.12.2025, vide Inward No.

D-8248, placing on record a copy of CMA No. 810 of 2012, being the probate application dated 30.06.2012 filed before the Learned Civil Court at Rajkot, along with its English translation. Upon perusal of the documents placed on record, it is noted that the Will relied upon by the Appellant was executed at Muscat before the Embassy of India, whereas the Will dated 05.10.2011 relied upon by the Respondent is executed on stamp paper purchased in Rajkot, Gujarat. However, the place where the latter Will was actually executed and signed, whether within the territorial jurisdiction of India or outside India, is not apparent from the documents available on record.

12. That the **Affidavit** on behalf of Respondent No. 1 was filed on 03.02.2026 vide Inward dairy No. D – 951 regarding the place of execution of Supplementary Will dated 05.11.2011, as placed by the way of Sur- Rejoinder. Wherein travelling details furnished :-

i. Date of Entry in Muscat: 02.10.2011
ii. Date of Execution of Will: 05.10.2011
iii. Date of leaving Muscat: 05.10.2011
iv. Date of return to India: 06.10.2011
v. Validity of Muscat Visa: 02.10.11-23.10.2011

The copies of relevant extract from the passport of Mr. Rajiv K Doshi are annexed as *Annexure –A.*

13. In compliance with the order dated 17.09.2026, a Purshish has been filed by M/s. EB5 India Advisory Private Limited has deposited the sum of Rs. 10,000/- in the Prime Minister's National Relief Fund on 12.10.2026. A copy of the payment receipt is annexed herewith as proof of compliance.

14. Order dated 15.10.2026 notes filing of a **Revised Written Submission** by the Respondent on 14.10.2026 vide Inward dairy No. D 8895 in which decision of the Hon'ble Supreme Court in the case of *Property Company Private Limited V/s. Rohinten Daddy Mazda* - (2026) 4 SCC 1, is relied. The same was taken on record.

15. Further, the Appellant was also given the liberty to file the revised written submissions along with chronology of event. A combined written submission in both the appeals has been filed by the Appellant on 29.10.2026.

16. We note below relevant chronology of dates and events:

Sr.	Date	Events

No.		
1.	11.07.2011	Late Madhookar Kothary acquired 7,000 shares of ₹10 each in EB5 India Advisory Private Limited (formerly Nexus Monetizing Private Limited) for a consideration of ₹17,50,000. On the same date, he also acquired 1,455 shares of ₹100 each in Expat NRI Solutions Private Limited (formerly Virtual Concepts Private Limited) for a consideration of ₹36,75,000.
2.	03.10.2011	According to the Respondents, the Will of Late Madhookar Kothary was executed on this date. The Appellant relies upon this Will as the testamentary document bequeathing the remaining properties to the Wife. The Respondents contend that this Will was subsequently attested by the Embassy of India on 18.10.2011.
3.	05.10.2011	The Respondents rely upon an alleged supplementary Will stated to have been executed on this date, specifically dealing with the shares in question and bequeathing them equally to Shrenik Rajiv Doshi, Utsav Rajiv Doshi, Pranjal Niraj Doshi and Tanay Niraj Doshi. The Appellant disputes the genuineness and validity of this document.
4.	18.10.2011	The Appellant relies upon a Will executed at Muscat before the Embassy of India. The Appellant contends that the said Will supports her entitlement to the properties, including investments and shares, subject to its terms. This will was attested by Minaxi and Vishal.
5.	24.10.2011	Late Madhookar Kothary passed away. The Appellant claims entitlement to the shares as his legal heir and under the Will relied upon by her.
6.	22.12.2011	Shital Sheth arrives in India
7.	30.12.2011	According to the Respondents, the Appellant, along with the other legal heirs of the deceased, submitted a letter to the Company expressing no objection to transmission of the shares in favour of the four named beneficiaries, allegedly in accordance with the supplementary Will. The Appellant disputes the Respondents' interpretation and reliance upon the relevant documents.
8.	01.01.2012	The Appellant alleges that Smt. Shital Sheth, one of the purported signatories to the indemnity documents, had left India on this date. She relies upon her passport records to question the genuineness of the indemnity documents.

9.	02.01.2012	The Respondents rely upon an Affidavit/Letters of Indemnity stated to have been furnished by the legal heirs, including the Appellant, as the basis for processing the transmission of the shares. The Appellant disputes the genuineness and validity of the relevant documents.
10.	04.01.2012	The Respondent alleges that the Appellant along with other family members of the Appellant executed Letter of Indemnity and Affidavits, for which stamp papers were purchased by the Appellant herself.
11.	04.01.2012	Notarial entry and company records transfer of the shares to the four transferees.
12.	30.06.2012	CMA No. 810 of 2012, being an application for probate, was filed before the competent Civil Court at Rajkot by Rajiv Doshi, the executor of the Will relied upon by the Appellant.
13.	24.06.2013	The Civil Court at Rajkot passed a probate order in CMA No. 810 of 2012 viz-a-viz the will dated 03.10.2011. The Appellant relies upon this order in support of her case. The Respondents dispute the extent to which the probate proceedings determine the rights in the shares forming the subject matter of the present appeals.
14.	Financial Year 2012–13	According to the Respondents, the names of the transferees were reflected in the Company's Balance Sheet for this financial year. The Respondents rely upon this circumstance in support of their objection concerning delay and limitation.
15.	April 2019	The Appellant claims that she first became aware of the alleged transfer of the shares through documents obtained in connection with other disputes and an ROC search conducted by her advisors.
16.	17.10.2021	The Appellant relies upon an email sent to seek clarification regarding the disputed shares, as part of her case that she made efforts to ascertain the position after learning of the alleged transfer.
17.	26.01.2022	The Appellant relies upon a further email seeking clarification regarding the disputed shareholding.
18.	25.05.2022	The Appellant issued a notice to the Company seeking appropriate action in relation to the shares and seeking rectification of in the Register of Members.
19.	27.05.2022	The aforesaid notice was delivered to the Company.

		According to the Appellant, the Company did not respond or take steps to rectify the Register of Members.
20.	04.06.2022	According to the Respondents, a resolution was passed for the removal of Shri Vishal Madhookar Kothary, the Appellant's son, from the Board of Directors of Muscat Polymers Private Limited. The Respondents allege that the present appeals were filed as a counterblast to the said removal. The Appellant disputes this allegation.
21.	02.01.2023	The Appellant instituted the present proceedings seeking rectification of the Register of Members under Sections 58 and 59 of the Companies Act, 2013, in respect of the shares held by the deceased in the two companies.
22.	19.04.2024	First appearance of the supplementary will in the sur-rejoinder.
23.	08.12.2025	The Appellant filed an affidavit vide Inward No. D-8248, placing on record a copy of CMA No. 810 of 2012, dated 30.06.2012, along with its English translation.
24.	11.12.2025	The Tribunal recorded that the probate application had been placed on record and observed that the Will relied upon by the Appellant was executed at Muscat before the Embassy of India, whereas the supplementary Will relied upon by the Respondents was executed on stamp paper purchased in Rajkot. The actual place of execution and signing of the latter document was not apparent from the material then available.

17. We have heard learned counsel for the Appellant and the Respondents and considered the pleadings, affidavits, documents and written submissions. These appeals are decided by this common order, while separately identifying the shares and company records involved in each appeal. The following issues arise for determination: -

(i) **Issue No.01:** Whether the appeals are barred by limitation or liable to be dismissed on account of delay and laches.

(ii) **Issue No.02:** What is the effect of the competing Wills, the letter dated 30.12.2011, the indemnity documents dated 02.01.2012 and the probate order dated 25.04.2013.

(iii) **Issue No.03:** Whether the claims fall within the jurisdiction of the Tribunal under Sections 58 and 59 of the Companies Act, 2013.

(iv) **Issue No.04:** Whether the absence of the four alleged beneficiaries as parties affects the grant of effective relief.

(v) **Issue No.05:** Whether the Appellant is entitled to rectification, consequential relief and costs.

18. <u>Findings on Issue No. 1 -</u> Whether the appeals are barred by limitation or liable to be dismissed on account of delay and laches?

18.1. The Appellant contends that she first became aware of the impugned entries in April 2019, issued a notice dated 25.05.2022, delivered on 27.05.2022, and thereafter instituted the present appeals in December 2022. The Respondents contend that the disputed shares were transmitted in January 2012 and that the proceedings have been initiated after an inordinate and unexplained delay.

18.2. Section 433 of the Companies Act, 2013 makes the provisions of the Limitation Act, 1963 applicable, as far as may be, to proceedings before this Tribunal. However, the applicability of a particular limitation

period must be determined with reference to the statutory remedy invoked and the nature of the relief sought.

18.3. In ***The Property Company (P) Ltd. v. Rohinten Daddy Mazda***, Civil Appeal No. 92 of 2026, decided on 07.01.2026, the Hon'ble Supreme Court distinguished proceedings under Section 59 of the Companies Act, 2013, for rectification of the register from appeals under Section 58(3) against refusal to register a transfer or transmission. As noted in paragraphs 152 and 153 of the judgment, Section 59 does not prescribe a specific period of limitation, whereas Section 58(3) provides a prescribed period for the appeal contemplated therein.

18.4. Accordingly, the objection that the present proceedings under Section 59 are necessarily barred by applying Article 137 of the Limitation Act, 1963, cannot be accepted mechanically. The decision in ***Sunil Gulati v. Alag Intco Hotels Private Limited***, Company Appeal (AT) No. 131 of 2024, decided on 06.08.2024, must also be considered in the context of its facts and the applicable statutory provisions.

18.5. Nevertheless, the absence of a specifically prescribed limitation period under Section 59 does not render delay and laches irrelevant. The period elapsed, the Appellant's explanation for the delay, the circumstances in which the impugned entries

came to her knowledge, and any prejudice caused by reopening the transactions are relevant considerations in determining the relief, if any, to be granted.

18.6. In the present case, the Appellant relies upon her asserted discovery of the entries in April 2019 and the subsequent correspondence dated 17.10.2021 and 26.01.2022. The Respondents, on the other hand, rely upon the documents allegedly furnished in December 2011 and January 2012, as well as the company records for the relevant period. The genuineness and legal effect of those documents remain disputed and cannot be treated as conclusively established merely because they have been relied upon by the Respondents.

18.7. In these circumstances, the appeals cannot be held barred solely by mechanically applying Article 137 to a claim under Section 59. The objection based on delay and laches shall be considered in the context of the evidence, the explanation furnished by the Appellant and the nature of the relief sought.

18.8. Accordingly, Issue No. 1 is answered in the above terms. The objection of automatic statutory limitation under Article 137 is not accepted; the question of delay and laches remains relevant to the grant of relief.

19. <u>Findings on Issue No. 2 -</u> What is the effect of the competing Wills, the letter dated 30.12.2011, the indemnity documents dated 02.01.2012 and the probate order dated 25.04.2013?

19.1. The Appellant relies on the Will described in the pleadings as dated 03.10.2011 and attested by the Embassy of India on 18.10.2011, and on the probate order dated 25.04.2013 in CMA No. 810 of 2012. The Respondents rely on a supplementary Will stated principally as dated 05.10.2011, the letter dated 30.12.2011 and indemnity documents dated 02.01.2012.

19.2. The draft record also refers to the supplementary Will as dated 05.11.2011. The original instrument must be checked to resolve this discrepancy. The Appellant disputes its execution and validity; the Respondents assert that the Appellant and other legal heirs requested transmission of shares to Shrenik Rajiv Doshi, Utsav Rajiv Doshi, Pranjal Niraj Doshi and Tanay Niraj Doshi.

19.3. The Appellant's Annexure A is described as proof of allotment and payment; Annexure B as the annual return and list of allottees; and Annexure C as the notice dated 25.05.2022 and delivery acknowledgment. In later affidavits, the Will and translation are described as Annexure R-2, passport

material concerning Smt. Shital Sheth as Annexure R-3, and probate/death-certificate material as Annexure R-1, according to the respective filings.

19.4. The Respondents describe the supplementary Will as Annexure A, the letter dated 30.12.2011 as Annexure B, and the indemnity documents as Annexure C; passport extracts of Mr. Rajiv K. Doshi are also described as Annexure A. These labels are filing-specific and do not establish authenticity by themselves.

19.5. The probate order must be read with the Will, the probate application and the precise terms of the grant. The present record, as summarised in the pleadings, does not justify a finding that the probate order conclusively determines the entitlement to the disputed shares without examining its scope and legal effect.

19.6. The Appellant relies on passport records to show that Smt. Shital Sheth left India on 01.01.2012. The Respondents rely on signatures, notarisation, stamp papers and company records. The travel details of Mr. Rajiv K. Doshi—entry into Muscat on 02.10.2011 and return to India on 06.10.2011—do not alone establish where or in what circumstances the testator executed the disputed instrument.

19.7. Section 56(2) of the Companies Act, 2013 addresses transmission by operation of law upon receipt of the

prescribed intimation and evidence. It does not, by itself, determine which competing testamentary claimant is entitled to the shares. The acquisition records establish the deceased's stated holdings, not the final entitlement after his death.

19.8. The Tribunal does not make a finding that either Will, the letter dated 30.12.2011 or the indemnity documents are genuine or forged. Their execution, construction, admissibility and legal effect are contested matters which cannot be conclusively determined on the present summary record. Hence, this issue is decided accordingly.

20. <u>Findings on Issue No. 3:-</u> Whether the claims fall within the jurisdiction of the Tribunal under Sections 58 and 59 of the Companies Act, 2013?

20.1. Section 59 empowers rectification where a person's name is entered in or omitted from the Register of Members without sufficient cause, or where default or unnecessary delay occurs in recording membership. Section 58 addresses refusal to register a transfer or transmission and the statutory appeal arising from such refusal.

20.2. In ***Ammonia Supplies Corporation (P) Ltd. v. Modern Plastic Containers (P) Ltd.,*** (1998) 7 SCC 105, the Supreme Court held that rectification jurisdiction is not intended to replace a full trial

where complex and seriously disputed questions of title require extensive evidence. The forum must examine the substance of the dispute rather than its label.

20.3. In ***IFB Agro Industries Ltd. v. SICGIL India Ltd.,*** (2023) 4 SCC 209, the Supreme Court reaffirmed the summary nature of Section 59 jurisdiction and held that the NCLT cannot assume parallel jurisdiction over matters entrusted by statute to another regulator. The case reinforces the need to remain within the statutory limits of rectification.

20.4. In ***Chalasani Udaya Shankar v. M/s. Lexus Technologies Pvt. Ltd.,*** Civil Appeal Nos. 5735–5736 of 2023, decided on 09.09.2024, 2024 INSC 671, the Supreme Court considered claims under Sections 59 and 88, allegations concerning shareholding records and the applicable statutory framework. The decision requires the claim to be assessed on the pleadings and evidence; an allegation of fraud alone does not replace that assessment.

20.5. ***National Insurance Co. Ltd. v. Glaxo India Ltd.,*** AIR 1999 Bom 240; 1999 (2) Mh.L.J. 883, and ***Prabodh Jamnadas Kothari v. Vikram Jamnadas Kothari,*** (2013) 1 Mh.L.J. 825; (2013) 177 Comp Cas 199, were cited for the proposition that a dispute over the very title or transaction,

involving contested facts and fraud or forgery, may require adjudication beyond summary rectification.

20.6. The Respondents also cite ***N. Ramji v. Ashwath Narayan Ramji,*** 2017 SCC OnLine Mad 37591, on the limits of rectification where title is disputed. Their written submissions also list ***Dhirubhai alias Dhirajlala H. Desai & Ors. v. Lataben Abuwalla & Ors.,*** (2016) 1 SCC 423; the case-title and citation combination could not be verified as matching. No proposition is attributed to that reference without clarification of the correct authority.

20.7. ***Minaxiben Shashikantbhai Patel v. District Collector,*** 2006 SCC OnLine Guj 285; (2007) 48 (1) GLR 277, was cited concerning the circumstances in which probate is required for a Will. It does not determine the authenticity, construction or priority of the competing testamentary instruments in the present matters.

20.8. Applying the above authorities, the claims require determination of the competing Wills, their execution and construction, the effect of the probate order, and the genuineness and meaning of the letter and indemnity documents. These matters are central to the asserted entitlement, not merely incidental errors in the register. The Tribunal therefore declines to determine testamentary title on this record.

20.9. Accordingly, the issue is, therefore, **answered in favour of the Respondents**.

21. <u>Findings on Issue No. 4:-</u> Whether the absence of the four alleged beneficiaries as parties affects the grant of effective relief?

21.1. Section 424(1) of the Companies Act, 2013 requires the Tribunal to adhere to the principles of natural justice. Any order under Sections 58 or 59 affecting registered shareholding must afford persons whose interests are directly affected a reasonable opportunity of hearing.

21.2. The four persons allegedly entered as beneficiaries—Shrenik Rajiv Doshi, Utsav Rajiv Doshi, Pranjal Niraj Doshi and Tanay Niraj Doshi—are not impleaded. Since the relief sought may require deletion or alteration of their entries in the Register of Members, their presence is necessary for effective adjudication.

21.3. In ***Mumbai International Airport (P) Ltd. v. Regency Convention Centre & Hotels (P) Ltd.,*** (2010) 7 SCC 417, the Supreme Court held that a necessary party is one without whom no effective order can be passed, while a proper party enables complete and effective adjudication. The principle supports impleadment of persons directly affected by the proposed relief.

21.4. Shri Vishal Kothary, Smt. Shital Sheth and Smt. Shailja Kothary are mentioned in the pleadings; however, their mere identification as family members or persons connected with disputed documents does not, by itself, establish that each is a necessary party. Their impleadment depends on whether effective relief requires adjudication of their individual rights or conduct.

21.5. The absence of the four alleged beneficiaries prevents the Tribunal from granting effective rectification affecting their registered interests without hearing them. The defect is material and cannot be cured by deciding the competing testamentary claims in their absence; no finding is made on the genuineness or legal effect of either Will.

21.6. We also note that the no objection certificates, and indemnity letters based on the WILL dated 05.11.2011 are alleged to have been provided by two daughters and one son other than the Appellant. None of these three other persons have denied the certificates or the letters which were also used by the company for transmission of shares. These three persons are also not made the Respondents.

21.7. Accordingly, Issue No.4 is decided against the Appellant.

22. <u>Findings on Issue No. 5:-</u> Whether the Appellant is entitled to rectification, consequential relief and costs?

22.1. The Appellant claims 7,000 shares of Rs. 10/- each in EB5 India Advisory Private Limited, acquired for Rs. 17,50,000/- on 11.07.2011, and 1,455 shares of Rs. 100/- each in Expat NRI Solutions Private Limited, acquired for Rs. 36,75,000/- on the same date. The claims for corporate-action shares and dividends depend on establishing entitlement to the underlying shares.

22.2. The Respondents rely on the judgments listed in paragraph 8 of the draft record, including the authorities discussed above. Their application to this dispute supports a distinction between rectification of a register and adjudication of disputed testamentary title; no finding is made that any party committed fraud or fabricated a document.

22.3. In view of the disputed testamentary instruments, the contested transmission documents and the absence of the persons whose registered interests would be affected, no direction for rectification or payment of dividends can be granted in these appeals on the material presently identified. This conclusion does not determine the merits of the parties' competing claims to the estate or shares.

23. In view of the foregoing discussion and findings, **Comp. Appeal No. 3 (AHM) of 2023**, concerning 7,000 shares in EB5 India Advisory Private Limited, and **Comp. Appeal No. 5 (AHM) of 2023**, concerning 1,455 shares in Expat NRI Solutions Private Limited, are **dismissed** without adjudication of testamentary title. The parties may pursue such remedy as is available before a forum competent in law, subject to jurisdiction, limitation, maintainability and all other objections.

24. All questions concerning the genuineness, admissibility and legal effect of the Wills, the letter dated 30.12.2011, the indemnity documents dated 02.01.2012, the probate order dated 25.04.2013, limitation, corporate-action shares and dividends are left open. No opinion is expressed on the ultimate entitlement of any party.

25. There shall be no order as to costs. A copy of this common order shall be placed in each appeal file.

-Sd-

SANJEEV SHARMA
MEMBER (TECHNICAL)

-Sd-

SHAMMI KHAN
MEMBER (JUDICIAL)

SS