



IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.301
Appeal/32(AHM)2023

Proceedings under Section 59 of Co. Act, 2013

IN THE MATTER OF:

Symphony Limited
V/s
Swapnil Suryakant Sutar & Ors.

.....Applicant

.....Respondent

Order delivered on: 03/12/2025

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed before pronouncement of order.

The order is pronounced in open court vide separate sheet.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)



**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD (COURT - II)**

Co. Appeal No. 32 OF 2023

*(Under Section 59(1) of the Companies Act 2013 and the Rules
framed there under)*

IN THE MATTER BETWEEN:

Symphony Limited,

Having its registered office at:

Symphony House, 3rd Floor,

FP12-TP50, Bodakdev,

Ahmedabad - 380 059

Through its authorised officer

Mr. Mayur Barvadiya

Company Secretary - Head (Legal)

Male, Aged 47 year

..... Appellant

Versus

1. Swapnil Suryakant Sutar

Address: Room No. 16, Bldg. No.11,

Maharashtra Chs, Gate No. 5.

Jogeshwari Vikhroli Link Road,

Powai, Mumbai - 400072

2. Dilip M Parekh

Address: M-1, Green Park Extension,

New Delhi -110016

3. Gobinda Das Nundy

Address: F-183, Man Sarovar Garden,

New Delhi -110015

4. Satish Tukaram Lankeshwar

Address: Jay Krishna Building No. 12,

Sd/-

Sd/-



Plot No. 1207, Bharat Nagar,
Belgaum, Karnataka – 590003

5. Nihit Shantilal Sangoi

Address: 402, Twelve Star,
Datta Mandir Road,
Dahanukar Wadi,
Kandivali-West, Mumbai – 400067

6. Alaka Debi Lal

Address: 124 D Regent Colony,
Netaji Nagar, Kolkata -700 040

7. Vinod Prabhakar Chavan

Address: Room No. 7,
Laxman Sakharam Bavise Chawl,
Datt Pada Road,
Opp. J. B. Khot High School,
Patil Wadi, Borivali-East, Mumbai – 400066.

8. SBI Capital Market Limited

The Indian Magnum Fund.
Address: 224 Mittal Court, B Wing,
2nd Floor, Nariman Point,
Mumbai – 400001

9. Kishore Govind Devre

Address: C/O Kailash Chandra M Mehta,
D-3/9 Jolly Appt
Nr Rajmin Gas Co Girdhar Nagar,
Ahmedabad – 380008 and
also at 47, Murlidhar Society, Part – II,
Saiyad Wadi, Vatva Road,
Ahmedabad- 382400

10. P.K.Swaminathan

Address: J 214 Reserve Bank of India,
Staff ORS, S.T. Road,
Chembur, Mumbai – 40007

11. Manoj Khandelwal

Address: B-38, Uganda Park, Maninagar,

Sd/-

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Ahmedabad 380 008 and
also at 1 - Shrinagar Colony,
Shajalpur Mandi, Dist. - Shajalpur - 465333

12. Rekh Raj Pareek

Address: SCICI LTD. 141. Maker Tower F.
Cuffe Parade, Mumbai - 400005

13. Rakesh Khetan

Address: A/5, 502, Flower Valley Complex,
Off Eastern Express Highway,
Opp. Voltas Khopat, Thane (west) - 400 601

14. Kumarpal Shah

Address: B-14 Shashtri Building,
Gyan Mandir Road, Dadar (W),
Mumbai - 400028.

15. Security and Exchange Board of India (SEBI)

Plot No. C4-A, G Block,
Bandra Kurla Complex, (BKC)
Bandra (E), Mumbai 400051

... Respondents

Order pronounced on 03.12.2025

Coram:

MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)

MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)

Present:

For the Applicant : Mr. Sachin Vasavada, Advocate
For the Respondent : Mr. Sunny Gohil, Advocate (for R-1)
Ms. Dharmishta Raval, Advocate
(for R-15, SEBI)

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JUDGEMENT

1. The present appeal is filed u/s. 59(1) of the Companies Act, 2013 (for short the Act) for rectification of Register of Members of the Appellant Company by removing the names of Respondent No.1 to 7, in whose favour shares are illegally transferred by RTA and allowing the Appellant Company to restore the name of original owners of the shares i.e., Respondent no. 8 to 14, whose shares have been illegally transferred.

2. Facts of the Case:

- i. The Appellant Company was originally incorporated in 1988 as "Sanskrut Comfort Systems Private Limited", later converted into a Public Company in 1992, entered the capital markets through public issue in 1994, changed its name to "Symphony Comfort Systems Limited" in 1995 and finally to "Symphony Limited" in 2010. The Company has been in the business of air-coolers for more than 35 years, marketed under the brand "Symphony", and is listed on both NSE & BSE with a public shareholding of 26.75%, out of which mutual funds and FPIs hold about 15%.
- ii. The Appellant submitted that, being a listed entity, it is mandated to comply with SEBI Listing Regulations. It had appointed Sharepro Services (India) Pvt. Ltd., a SEBI-

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registered Registrar and Share Transfer Agent (RTA). As per the contractual arrangement, the RTA had to facilitate the shareholders of the Appellant Company by doing all kind of works relating to shares/dividend and also duty bound to entertain all kinds of complaints/queries of shareholders by resolving their grievances. Appellant Company states that the RTA had also agreed to all kind of activities as per agreements.

iii. The Appellant Company stated that in 2012 its equity shares were split from the face value of ₹10 per share to ₹2 per share, entitling every shareholder to five equity shares of ₹2 for each ₹10 share, and the RTA was informed to issue the new ₹2 share certificates. As per SEBI practice, listed companies must engage an RTA for issuance of shares, warrants and dividends, accordingly the RTA was assigned this task.

iv. The Appellant stated that in 2015-16 it began receiving various complaints from shareholders alleging that the RTA had committed fraud, including sell/transfer of shares of original shareholders to its own beneficiaries, non-issuance of original/duplicate share certificates and non-response to

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shareholder queries. In 2016, SEBI initiated an investigation and passed orders debarring the RTA, its directors and officials.

- v. The Appellant Company states that news reports in February–March 2016 exposed serious irregularities and fraud committed by the RTA in share transfer, dividend payment and other activities. On 22 March 2016, SEBI passed an ex-parte ad-interim order under Sections 11, 11B and 11D of the SEBI Act against the RTA and its officials. Until this order, the Appellant believed the lapses were due to workload, but SEBI’s findings exposed fraudulent practices including issuing dividend/allotting shares to their own persons. SEBI’s order directed all client companies to conduct a 10-year audit of dividend payments and share transfers. Before receiving the order, certain transfers including those in favour of Respondents 1–7 had already been effected in good faith. On 30 March 2016, the Appellant lodged a police complaint and appointed Ernst & Young LLP to conduct a forensic review (“Project Breeze”).
- vi. The Appellant states that the EY submitted its report in first week of July 2016 revealing serious fraud which was forwarded to SEBI. It is submitted that one shareholder named Mr. Rakesh Khetan instituted the civil suit against the appellant and others for the said illegal transfer by RTA. It is submitted that few

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shareholders had gone up to Hon'ble Supreme Court for the misdeed of RTA.

- vii. The Appellant Company states EY reviewed transactions from 1 March 2010 to 31 March 2016 including transfer, transmission, dematerialisation and dividend processing. It found that RTA fraudulently transferred 50,500 shares in 15 transactions to its own persons. The Appellant also conducted its own scrutiny in early 2016 and impounded 17,000 suspicious shares lodged for dematerialisation. A table of 8 major such transaction involving Respondents 1-7 and Respondents 8-14 is provided as follow:

| Sr no | Name of Transferor (Respondent no 8 to 14) | Name of Transferee/Fraudulent persons (Respondent no 1 to 7) | No of Shares (pre bonus issue of 1:1 shares) |
|--------------|---|---|---|
| 1 | SBI Capital Market Ltd. The India Magnum Fund | Swapnil Suryakant Sutar | 5,000 |
| 2 | Kishor Govind Devre | Dilip M Parekh | 1,000 |
| 3 | P.K. Swaminathan | Gobina Das Nundy | 1,000 |
| 4 | SBI Capital Market Ltd. The India Magnum Fund | Satish Tukaram Lankeshwar | 5,000 |
| 5 | Manoj Khandewala | Nihit Shantilal Sangoi | 1,000 |
| 6 | Rekha Raj Pareek | Nihit Shantilal Sangoi | 1,000 |

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| | | | |
|---|---------------|---------------------------|---------------|
| 7 | Rakesh Khetan | Alaka Debi Lal | 1,000 |
| 8 | Kumarpal Shah | Vinod Prabhakar Chavan | 2,000 |
| | | Total | 17,000 |

- viii. Further, the appellant states that there were in total 15 suspicious transfers noted in E&Y Report. Out of 15 such transactions, 7 transactions wherein the suspicious transferees have sold the shares in the market and therefore the appellant company has already filed commercial suit for damages against those transferees and RTA, its directors and officials.
- ix. The Appellant submitted that EY's findings specifically recorded transfers (i) without supporting documents to another shareholder who is linked to management of RTA, (ii) underlying documents for transfer of shares not available with RTA based (iii) transfer done on questionable and inadequate documents etc. the appellant further states that the legal notices were issued on 4-5 December 2017 to all such transferees, informing them of the irregularities, SEBI proceedings and the pending FIR. Replies received from the transferees are on record.
- x. The Appellant states that in 2016 it issued Bonus Shares in the ratio of 1:1. Had the RTA not committed fraud, the 17,000

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shares would have become 34,000 shares for the original shareholders. Upon discovering the fraud, the Company took physical possession of these 17,000 shares (i.e., 34,000 post-bonus) and they are lying safely in its custody.

- 3.** The Appellant Company filed further affidavit to place on record the judgement and order passed by the Adjudicating Authority, SEBI debarring the Sharepro Services (India) Private Limited (RTA) and others.

4. Respondent submission:

- i. Respondent No. 1 contends that the appellant company had sent a letter dated 05.11.2017 marked with folio no. 024453 inquiring about the status of shares in M/s Symphony Limited, to which Respondent No. 1 duly replied stating that he had no involvement in purchasing any shares of the company and clarified that Sharepro Services (India) Pvt. Ltd. and/or Indira Karkera were behind the transfer of such shares in his name. He emphasizes that he has limited literacy, neither acquired ownership nor participated in any purchase or transaction relating to Symphony Ltd. Respondent No. 1 was summoned at SEBI Bhawan, Mumbai, in relation to allegations involving Sharepro (RTA) and he consistently provided timely responses, which SEBI

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duly considered. He further submits that the Economic Offences Wing has initiated criminal proceedings against Sharepro Services (India) Pvt. Ltd. and its directors in Case Nos. 627/2016 and 513/2016 under violation of IPC provisions section 409,420,467,471,472,477(A), 120B and 34. It is further submitted that Sharepro's Vice-President, Indira Karkera, has admitted to illicit financial activities concerning share handling, establishing that Respondent No. 1 had no role in any such transfer. It is also noted that no criminal complaint has been filed by EOW against him. Respondent No. 1 maintains he was never a member of the company, never engaged in buying or selling shares, and was unknowingly used by Sharepro as a conduit due to his limited ability to read and write English and his lack of knowledge about shares, stock markets, and related transactions. Respondent No. 1 states that he had no knowledge or involvement in the transfer of shares and has been wrongly implicated in the share transfer transaction. Respondent no 1 further clarifies that they have no objection regarding the transfer of shares to the owner or any other as may be decided by this Tribunal.

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ii. Vide Order dated 06.03.2025 Applicant was directed to make SEBI as party pursuant to which amendment was carried out and SEBI was added as Respondent No. 15. SEBI has filed purshis stating that if the appeal is allowed and appellant Company is permitted to rectify its member's register, SEBI has no objection.

5. We have heard the counsel for the Applicant and the Respondents and have perused and considered the material placed before us.

6. **Observations:**

a) We have gone through the submissions made by the applicant who is the company which has submitted to have delegated through a Memorandum of Understanding dated 1 April 2014 to M/s Sharpro Services India Private Limited as its Registrar and Share Transfer Agent (RTA). The application is filed under Sec 59 (1) for rectification of its register. It is not clear if this was a continuation of an existing arrangement as it is not properly documented.

b) It is submitted that the RTA had wrongly entered the names of R 1 to R 7 in the register deleting the names of R 8 to 14

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(instead of) and thereby seeks restoration of the names of R 8 to R 14.

- c) The applicant has not made Sharpro Services India Private Limited as a respondent. The respondents R 1 and SEBI (on our orders) have only filed their reply in the matter.
- d) The Memorandum of Association of the applicant dated 2 Feb 1988 and Articles of Association dated Sept 24, 2014 (27th AGM) have been perused. There apparently does not appear to be any provision for enabling the company to appoint a RTA and the provision contained in the Articles of Association Para 24-28 apparently makes the onus of any dereliction or such fraud stated to have been committed by the third party on the applicant.
- e) The Agreement between the applicant and Sharepro Services (India) Private Limited mentions in Para 12 that “The Company is primarily responsible for the work of share transfer work assigned to the Transfer Agent”.
- f) The stated SEBI Order under Sec 11, 11B and 11 D of the SEBI 1992 – Ex Parte Interim Order (March 22, 2016) only mentions the fraud/irregularities/role played by Sharepro and its top management along with certain other entities

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mentioned in Para 6 (page 168 of the order). The subsequent order dated July 8, 2020 further extends the interim order dated March 22, 2016 and passed certain orders restraining the notices in the order, has not granted any reliefs to the stated R 8 – R 16 nor has in any mentioned the applicant to have been either affected as a party or involved in this act as possibly the applicant was not asked to appear before the authority. Para 12 of the order dated March 22, 2016 mentions that “Companies who are clients of Sharepro are also advised to carry out/switch over their activities related to a register to an issue and share transfer agent registered with SEBI. Sharepro Private Limited shall provide the requisite cooperation to those companies for the purpose”.

- g) This application is filed on 21.03.2023 and there is no submission as to whether the applicant set its records to verify the transactions (even if these were transacted without a proviso in the Memorandum of Association, Articles of Association), clearly applicant thereby has filed this application for obsoleting itself from the stated act of transfers and transactions between wrong parties. Also we find only R 1

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has filed its reply. None of the respondents R 8 to R 14 have neither appeared nor have filed any reply stating their claim.

h) Also a perusal of the balance sheet and independent audit report submitted for 2021-22 dated 26 July, 2022 and 3 May 2022, there is no mention of the applicant affected by such illegal share transfer by its agent. Also the company has not provided any board approved resolution of having initiated any action (except its letters to various individuals stated to have been involved in the fraudulent transactions which are stated to have been referred to SEBI), clearly the applicant has attempted to mislead this tribunal to seek certain prayers to set right its records for which it is liable to pay to the original applicants (if the fraud has been detected by freezing the shares) with appropriate compensation to the party who is affected financially. The applicant has not also furnished the progress in the FIR lodged and there apparently seems to be a EOW matter under investigation. The applicant has not provided a copy of the stated E & Y report.

i) It is also observed that SEBI has filed a purshish dated 25.09.2025 that they have no objection if the application is allowed and the names of R 8 to R 14 are mentioned as the

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original shareholders. This is absolutely not appropriate for an agency which has passed certain orders against the Sharepro Services India pvt limited without exonerating the applicant name has not been mentioned either to have been involved in the transactions or part of these fraudulent transactions. The reply filed by SEBI is not in order.

- j) Given the set of documents and evidences, this is a case of fraudulent transactions by the agent, stated to have been noticed later by the applicant, the actual title to shares are not confirmed to be possessed by the respondents 8 to 14, if as per statement they were through the RTA and the only respondent R 1 who came before us has been ignorant and illiterate and professed that he is not aware of the transactions.
- k) This court does not have the power to regularise a fraudulent transactions as a parallel entity which had an agency arrangement has committed the fraud and the applicant may have to only make good if the fraudulent proceeds of the crime is not realised to the respondents if any claim is made.
- l) We rely on the judgment of the Honble NCLT New Delhi in the matter of M/s Eicher Motors Limited Vs Adarsh Kaur & Ors in

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Company Appeal(AT) No.176 and 177 of 2017. Similar judicial references are also drawn from Co. Appeal/1(AHM)2021with IA/19(AHM)2022 Manoj Laljibhai Baldha Vs Akshar Spintex Limited is referred.

- m)The applicant being the company has not preferred this application under Sec 59(4) with necessary documents if there are any other contraventions of any other law, merely has sought this authority to regularise the list which is not admissible. Applying under Sec 59(1) admits that an entry has been made in the register of members of company, where the responsibility is co existing with the agent.
- n) There is an allegation of fraud and EOW has examined the matter and certain orders are passed by SEBI and as observed in the decision of Honble Supreme Court in M/s Ammonia Supplies Corporation (P) Limited vs M/s Modern Plastic Containers Pvt Ltd & Ors” this is not a fit case for this tribunal to exercise its power under Sec 59 of Companies Act 2013, since we are not aware of who owns the original physical certificate of shares and none of the respondents have appeared before us claiming the ownership

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ORDER

- 1) Co. Appeal 32 of 2023 is dismissed.
- 2) Registry is directed to forward a copy of this order to the Economic Offences Wing to also look in to the role of the applicant in the matter of investigation under progress. A copy of this order is also to be issued to SEBI and all the market regulators with whom the company is listed as we do not know if these shares transferred in the names of R 1 to R 7 or R 8 to R 14 were repeatedly traded.
- 3) ROC is directed to investigate the registers of the company for its compliance under Sec 90 of Companies Act for the period from 2014 to 2016 and take appropriate action for violations if any.

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**DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)**

Sd/-

**CHITRA HANKARE
MEMBER (JUDICIAL)**

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