

International Justice Day Moot Court Competition 2021 Case Laws for Celebration of Student Month July- 2021

Facts of the case:

ABC & Sons was formed as a partnership firm in the year 1910 and was converted into a private company in the year 1948 under the Companies Act 1913 by the name ABC & Sons Private Limited. The shares were held only by the family members of the ABC family – i.e. Mr. A and his 4 sons – B, C, D and E. The articles of association of the company contained a clause stating that shares can be transferred only to the male lineal descendants of the existing shareholders of the company. The partnership as well as the company were in the business of preparing food products.

Mr. D was in charge of the finance matters of the company and was also a director of the company along with B, C and E. Mr. A, the founder, was then deceased. The company has a large number of immovable properties in Maharashtra which was acquired by Mr. A in the name of the company during his lifetime.

In the year 1985-86, differences arose between Mr. D on one side and Mr. B, C and E on the other side. Mr. D offered to resign from the post of directorship and sell his 25% shares in the company which were jointly held with his two sons. This proposal was accepted by the other directors and shareholders. In the AGM held in September 1986, Mr. D did not offer himself for reappointment as a director of the company and thus was no longer a director of the company. The other shareholders, however, did not keep their word and now refused to purchase 25% shares of Mr. D to allow him to exit the company.

The differences arose to a great extent in the family. Over a period of time, the company offered shares on rights basis to which Mr. D did not subscribe and now his shareholding was down to 7.5%. Mr. D no longer had any say in the management and affairs of the company.

The two sides were in constant discussions about buying out shares of Mr. D but were never able to conclude for various reasons.

In the meanwhile, the performance of the company deteriorated to a large extent. The persons in management of the company, Mr. E, his two sons and son of Mr. B (since deceased), did not have requisite skills to manage the company and were siphoning off funds through their own companies set up in ancillary businesses. All contracts for manufacturing of these food products, packing them, purchase of raw materials, marketing of these products was outsourced to their own companies. They were also drawing huge salaries from ABC and Sons Private Limited. There are huge borrowings made in the name of the company.

The persons in management have now started selling off immovable properties in the company. Presently, Mr. D along with his sons holds 7.5% of the issued and paid up capital of the company. The remaining capital is held by Mr. E, his two sons and son of Mr. B (since deceased). There are total 7 shareholders in the company.

Mr. D and his sons now want to file a petition under section 241, 242 of the Companies Act, 2013.

You need to advise Mr. D about his chances, prepare his petition and present it. Also, advise whether petition under any other section can be filed.