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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 28th March, 2023

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W.P.(C) 17742/2022

**DAINIK SAMACHAR LTD THROUGH ITS DIRECTOR MRS
KIRAN CHOPRA** Petitioner

Through: Mr. Arvind Kumar Nigam & Mr. Raj
Shekhar Rao, Sr. Advocate along with
Dhruv Chawla, Advocate (M-
9971897143).

versus

**THE REGISTRAR OF NEWSPAPER FOR INDIA THROUGH THE
PRESS REGISTRAR & ANR.** Respondents

Through: Mr. Rajesh Kumar Gogna, CGSC
with Ms. Priya Singh, Advocate.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner-M/s Dainik Samachar Ltd. through its Director-Mrs. Kiran Chopra, against Respondent No.1- Registrar of Newspaper for India ('RNI') and Respondent No.2- GNCTD.
3. The reliefs sought in this petition are as under:

“a) Issue a Writ of Mandamus or any other appropriate writ directing the Respondent No. 1 to update its Register based upon the authenticated declaration dated 14.09.2022 to reflect the change in printer, publisher, editor and owner of ‘Punjab Kesari’, Daily, Hindi, Delhi Edition; and

b) Issue a Writ of Mandamus or any other appropriate writ directing Respondent No. 1 to issue the updated certificate of registration bearing no. 40474/83 reflecting the change in printer, publisher and editor of

*‘Punjab Kesari’, Daily, Hindi, Delhi Edition; and
c) Issue a Writ of Mandamus or any other appropriate writ directing Respondent No. 1 to make necessary entries in the register and issue the necessary registration certificate in respect of territories falling to the share of the Petitioner, as per the MOFS dated 16.07.2022, as and when applied for by the Petitioner;”*

4. *‘Punjab Kesari’* is a well-known newspaper, published in India from around Independence in 1948. The said newspaper initially started publication in Jalandhar, Punjab as *‘Punjab Kesari’* Jalandhar edition in 1965 and *‘Punjab Kesari’* Delhi edition in 1983. Both publications were being carried out by the owner - M/s. The Hind Samachar Ltd., with Sh. Vijay Kumar Chopra as printer, publisher and editor, and was duly registered with the RNI. The details of the certificates of registration is provided below:

Newspaper	Publication City	RNI Certificate No.	Owner Name
Punjab Kesari	Jalandhar	10117/65	Hind Samachar Ltd.
Punjab Kesari	Delhi	40474/83	Hind Samachar Ltd.

5. Over the years, two family settlement agreements are stated to have been entered into between the various members of the family which was publishing Punjab Kesari. The broad division is between the descendants of sons of Late Mr. Lala Jagat Narain, i.e Late Mr. Romesh Chandra Chopra and Mr. Vijay Kumar Chopra who was running the M/s The Hind Samachar Ltd. Disputes arose between, namely, Late Mr. Ashwini Kumar Chopra (son of Late Mr. Romesh Chandra Chopra) and Mr. Vijay Kumar Chopra.

6. This disputes are stated to have resulted initially in a family settlement/consent order dated 19th October, 2005 ('2005 Settlement'). Post this dispute, two groups were formed, i.e Group A, identified to the family of Late Mr. Romesh Chandra Chopra (*hereinafter known as 'AKC parties'*) and Group B, identified to the family of Mr. Vijay Kumar Chopra (*hereinafter known as 'VKC parties'*). M/s The Hind Samachar Ltd. was then divided between two lots i.e. Lot 1 consisting, *inter-alia* of Jalandhar and Ambala Units in share of Group B or VKC parties and Lot 2 i.e. the Delhi and Jaipur Units in Group A or AKC parties. The Delhi Unit of Punjab Kesari fell in the share of Mr. Ashwini Kumar Chopra group/AKC parties, but the RNI registration continued to be in the name of Mr. Vijay Kumar Chopra. Thereafter, certain disputes arose between AKC parties and VKC parties during the implementation of execution of the Consent Order dated 19th October 2005, and disputes continued at various fora. Therefore, the Petitioner urges that, no changes/amendments could be made in printer, publisher, editor of the Punjab Kesari-Delhi Edition, which as a result continued with Mr. Vijay Kumar Chopra as printer, publisher, editor and The Hind Samachar Ltd., as owner.

7. After the 2005 settlement, a further oral family settlement was entered between the AKC parties and the VKC parties, and the same was recorded in the form of Memorandum of Family Settlement dated 16th July, 2022 ('MoFS'). As per Clause 3.8 of the MOFS, the title 'Punjab Kesari' - Delhi edition along with other territories as mentioned in Clause 9.1 of the MOFS has fallen to the AKC Group, and is vested in M/s Dainik Samachar Ltd- the petitioner in this writ petition.

8. This family settlement, i.e the MoFS, dated 16th July, 2022 has been

recognized by the order of the National Company Law Tribunal ('NCLT') vide order dated 27th July, 2022 in '*Ashwani Chopra v. Hind Samachar Ltd.*' [CP No. 28/Chd/Pb/2019] wherein the NCLT recorded as under:

“(i) The Hind Samachar Limited shall be bound by the Memorandum Recording Oral Family Settlement dated 16.07.2022 (MOFS).

(ii) CP No.76 of 1999 (Disposed of) is taken up alongwith CA No. 108 of 2019 and CA No. 151 of 2019 and all pending applications are disposed of. The Consent Order dated 19.10.2005 shall be implemented and given effect to in the manner as set out and modified in the MOFS, which resolves any and all disputes and claims pertaining to the execution of the Consent Order dated 19.10.2005.

(iii) Mrs. Kiran Chopra, Mr. Aditya Chopra, Mr. Akash Chopra and Mr. Arjun Chopra are impleaded as the legal heirs of Late Mr. Ashwini Kumar Chopra with consent of parties. Mrs. Sudershan Chopra relinquishes all her claims in the estate of Late Mr. Ashwini Kumar Chopra

(iv) Dainik Samachar Limited is impleaded as Respondent No.8 in CP No. 28 of 2019, and Respondent No. 15 in CP No. 191 of 2018 and Respondent No.8 in CP No.76 of 1999 acting through its Director Mrs. Kiran Chopra.

(v) AKC Lot, including all assets and liabilities, as defined in the MOFS, shall stand vested in Dainik Samachar Limited, as a going concern, along with all rights and authorization, without any further act or deed.

(vi) It is directed the transfer of receivables of AKC Lot, received before and after the passing of Vesting Order, would be into the below stated account of Dainik Samachar Ltd. in the manner provided in Clause 3.9 of the MOFS:

Branch: PUNJAB KESARI PROP DAINIK SAMACHAR LIMITED

Account Number: 0849102100000090

Bank Name: Punjab National Bank

Branch: D-13, Prashant Vihar, Sector 14, Rohini, Delhi-110085

IFSC Code: PUNB0084910

(vii) The Hind Samachar Limited alongwith VKC Lot shall be retained exclusively by VKC Group parties (excluding only the AKC Lot).

(viii) The entire shares in The Hind Samachar Limited held or registered in the name of Late Ashwini Kumar Chopra, Ashwini Kumar Chopra HUF and Romesh Chander & Sons HUF and 419 Class A shares and 202 Class B Shares held by Mrs. Sudershan Chopra and 1 share held jointly in the name of Late Ashwini Kumar Chopra and Avinash Chopra (as detailed in Schedule 5A of the MOFS) shall stand cancelled and extinguished and the share capital of The Hind Samachar Limited shall stand reduced accordingly without any further act or deed.

(ix) The Articles of The Hind Samachar Limited shall be deemed to be substituted by the Articles mentioned in Table F of Schedule 1 of the Companies Act, 2013 and the VKC Group Parties shall thereafter be free to further amend the Articles as deemed fit by them in accordance with law.

(x) Parties shall take necessary steps to withdraw pending civil and criminal proceedings between them in accordance with the MoFS.

(xi) With the above directions, the instant application i.e. CA No. 175/2022 is allowed and CP No.28/PB/2019 alongwith all pending applications, is disposed of.”

9. Pursuant to the above order of the NCLT, the Petitioner applied to the RNI vide application dated 19th September 2022 along with duly filled Form B under the provisions of the Press and Registration of Books Act, 1867 (*'PRB Act'*), seeking transfer of the RNI registration from Mr. Vijay Kumar

Chopra in respect of the *Punjab Kesari*- Delhi edition, in the name of Mr. Anil Sharda. The Petitioner also applied seeking change of the name of the owner from M/s. Hind Samachar Ltd. to Petitioner-M/s Dainik Samachar Ltd., with Mr. Anil Sharda as the publisher, printer and editor.

10. The above application was accompanied with a no-objection, and a declaration for transfer of title and ownership signed by Mr. Vijay Kumar Chopra, in whose name the current RNI registration of the Delhi edition of the *Punjab Kesari* stands. Despite the submission of these documents along with the required no objection certificates, the RNI has not permitted the transfer on the ground that there are various discrepancies. Vide discrepancy letter dated 16th January 2023, the RNI required the Petitioner to submit an ownership transfer affidavit duly authenticated by the concerned DM/SDM for ownership transfer in respect of all editions of title '*Punjab Kesari*' in order to satisfy the conditions under Section 6 of the PRB Act, 1867. The Petitioner has therefore approached this Court by way of a writ petition, seeking the change in the name of the owner as also the printer, publisher and editor of the *Punjab Kesari*, Delhi edition.

11. The submission of Mr. Arvind Nigam, Id. Senior Counsel is that the MoFS, dated 16th July, 2022 having attained finality and no objection having been issued by the current printer, publisher and editor, there can be no deficiency which can be raised as all of the required conditions have been satisfied. The family settlement has attained finality as is clear from the above order of the NCLT. In terms of Clause 9.1 and 9.2 of the MoFS, dated 16th July, 2022 the *Punjab Kesari*-Delhi Edition as well as *Punjab Kesari*, in respect of other territories vest in the AKC Group. In view of the clauses, the registration ought to be permitted to be transferred by the RNI.

12. Mr. Gogna, ld. CGSC on the other hand relies upon Section 6 of the PRB Act to argue that in case where a newspaper is published in the same language by another person, other than the applicant, a no-objection certificate would be required from the other publishers of the same newspaper and in terms thereof, the above discrepancy letter has been issued by the RNI.

13. Heard both the parties. A perusal of the present writ petition shows that the family settlement i.e MoFS, dated 16th July, 2022, has attained finality in terms of the order dated 27th July, 2022 passed by the NCLT. The disputes amongst family members have been long drawn and have continued over several years. The Petitioner in whose share *Punjab Kesari-Delhi* edition has fallen has thus moved an application before the RNI, rightly seeking change in the ownership and in the name of the printer, publisher and editor of the *Punjab Kesari-Delhi* edition. Ld. counsel appearing for the Petitioner submits that the certified copies of all the orders duly authenticated by the concerned Magistrate has already been supplied to the RNI vide application dated 19th September 2022.

14. Further, under Section 5(2E) of the PRB Act, whenever there is a change in ownership, a new declaration would be necessary. And, in terms of Section 6, the provision requires that the Magistrate shall authenticate documents that ought to be published along with the no objection certificate. The relevant Section 5(2)(E) and Section 6 are set out below:

“5. Rules as to publication of newspapers. —No [newspaper] shall be published in [India] except except in conformity with the rules hereinafter laid down:

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[(2)] The printer and the publisher of every such [newspaper] shall appear [in person or by agent authorised in this behalf in accordance with rules made under section 20, before a District, Presidency or Sub-divisional Magistrate within whose local jurisdiction such newspaper shall be printed or published and shall make and subscribe, in duplicate, the following declaration:

xxx

(2E)As often as the ownership of a newspaper is changed, a new declaration shall be necessary.]

6. Authentication of declaration.—*Each of the two originals of every declaration so made and subscribed as is aforesaid, shall be authenticated by the signature and official seal of the Magistrate before whom the said declaration shall have been made:*

[Provided that where any declaration is made and subscribed under section 5 in respect of a newspaper, the declaration shall not, save in the case of newspapers owned by the same person, be so authenticated unless the Magistrate 4 [is, on inquiry from the Press Registrar, satisfied] that the newspaper proposed to be published does not bear a title which is the same as, or similar to that of any other newspaper published either in the same language or in the same State.]”

15. While considering the scheme of the PRB Act as also Section 6, a 1d. Single Bench of this Court in ‘*Sanjay Agarwal v. Registrar of Newspapers for India*’ [2010 SCC OnLine Del 2920] has held as under:

“23. The second observation that this Court would like to make is that the proviso to Section 6 of the PRB Act dispenses with the need for authentication of the declaration only where the newspaper is proposed to be published and an

existing newspaper of the same title is “owned by the same person”. To illustrate with reference to the present case, if ‘Dainik Bhaskar’ was being published in Hindi anywhere in India (other than Ranchi) and newspaper published in such other place was also owned only by the Respondent No. 3, then there would be no need for authentication of the declaration. Admittedly, this is not the position here. Even according to Respondent No. 3, the Petitioner is the owner of the newspaper ‘Dainik Bhaskar’ published in Hindi from Jhansi. Not only Respondent No. 3 but even the RNI, which issued the order dated 18th June 2004, was aware of this fact. Therefore, clearly the requirement for an enquiry by the RNI was mandated by the second part of the proviso to Section 6 of the PRB Act. An enquiry by the RNI becomes necessary when the newspaper that is proposed to be published either has title which is the same as that of another newspaper published in the same language, which in this case is Hindi, or which has published in the same State. Therefore, even if there is no ‘Dainik Bhaskar’ previously published in Ranchi, that will not obviate an enquiry by the RNI for the simple reason that “Dainik Bhaskar” in Hindi is being published under the ownership of a different person in Jhansi. Therefore, the inquiry by the RNI in terms of the proviso to Section 6 of the PRB Act was mandatory.”

The above decision clearly recognises that an Inquiry by the RNI would be mandatory. Thus, in cases like the present one where different editions of the same title are being published by different entities/persons, the Inquiry would be needed.

16. In addition, however, the business and family exigencies as demonstrated also need to be considered. Family settlements, especially in Indian businesses are usually entered into to maintain peace and equilibrium in the family. The importance of family settlements is recognised in the seminal decision of the Supreme Court in ***Kale v. Deputy Director (1976) 3***

SCC 119, wherein the Supreme Court holds that such settlements ought to be given effect to, without going into technical or procedural glitches. The Supreme Court's observations are set out below:

“9. Before dealing with the respective contentions put forward by the parties, we would like to discuss in general the effect and value of family arrangements entered into between the parties with a view to resolving disputes once for all. By virtue of a family settlement or arrangement members of a family descending from a common ancestor or a near relation seek to sink their differences and disputes, settle and resolve their conflicting claims or disputed titles once for all in order to buy peace of mind and bring about complete harmony and good will in the family. The family arrangements are governed by a special equity peculiar to themselves and would be enforced if honestly made. [....]

The object of the arrangement is to protect the family from long drawn litigation or perpetual strifes which mar the unity and solidarity of the family and create hatred and bad blood between the various members of the family. Today when we are striving to build up an egalitarian society and are trying for a complete reconstruction of the society, to maintain and uphold the unity and homogeneity of the family which ultimately results in the unification of the society and, therefore, of the entire country, is the prime need of the hour. A family arrangement by which the property is equitably divided between the various contenders so as to achieve an equal distribution of wealth instead of concentrating the same in the hands of a few is undoubtedly a milestone in the administration of social justice. That is why the term "family" has to be understood in a wider sense so as to include within its fold not only close relations or legal heirs but even those persons who may have some sort of antecedent title, a semblance of a claim or even if they have a spes succession is so that future disputes are sealed for ever and the family instead of fighting claims inter se and wasting time, money and energy on such fruitless or futile litigation is able to

devote its attention to more constructive work in the larger interest of the country.

The Courts have, therefore, leaned in favour of upholding a family arrangement instead of disturbing the same on technical or trivial grounds. Where the courts find that the family arrangement suffers from a legal lacuna or a formal defect the rule of estoppel is pressed into service and is applied to shut out plea of the person who being a party to family arrangement seeks to unsettle a settled dispute and claims to revoke the family arrangement under which he has himself enjoyed some material benefits.

The decision in *Kale (supra)* was again considered by the Supreme Court in *Sita Ram Bhama v. Ramvatar Bhama [AIR 2018 SC 3057]* where the legal position was once again affirmed.

17. The current registration for *Punjab Kesari*-Delhi edition shows that the publisher, printer and editor are described as Mr. Vijay Kumar Chopra A-68/3, GT Karnal Road, Delhi-110033. The said Mr. Vijay Kumar Chopra is none else than the chairman of M/s The Hind Samachar Ltd. which was the publisher of the Delhi edition. The said Mr. Vijay Kumar Chopra has issued a no objection in terms of a declaration, as is required. The company i.e M/s The Hind Samachar Ltd. has also given a no objection and the same are set out below:

“AFFIDAVIT ON STAMP PAPER RS. 10/- BY OWNER OF TITLE DECLARATION FOR TRANSFER OF TITLE/OWNERSHIP

1. I, VIJAY KUMAR CHOPRA Chairman Cum Managing Director The Hind Samachar Ltd. aged about 90 years, Son of Late Lala Jagat Narain resident of Pucca Bagh, Civil Lines, Jalandhar, do hereby declare that I am the owner of periodical under title PUNJAB KESARI with Registration No. 40474/83 since 1983.

2. I have on this day i.e. 29/07/2022 transferred the entire rights of ownership/publisher ship/printer ship including all liabilities to **Dainik Samachar Limited 2, Printing Press Complex, Near DTC Bus Depot, Wazirpur, Delhi- 110035.**

3. 1, **VIJAY KUMAR CHOPRA CHAIRMAN CUM MANAGING DIRECTOR THE HIND SAMACHAR LTD.** have no objection about the Continuation of the above said periodical by **Dainik Samachar Limited** henceforth.

Further, I declare that the entire assets/liabilities and responsibilities will be at the own risk of **Dainik Samachar Limited** henceforth.

18. In addition the owner has also issued a No Objection which is extracted below:

183

VIJAYKUMARCHOPRA
CMD

THE HIND SAMACHAR LTD.

CIVIL LINES, JALANDHAR-144 001
PHONES:0181-5067200,2280104,2280105

Office of Registrar of Newspapers For India,
Ministry of Information And Broadcasting,
9th Floor, Soochna Bhawan, CGO Complex, Lodhi Road,
New Delhi - 110003
Re: No Objection to RNI filings by Dainik Samachar Ltd.

Dear Sir,

This is to confirm that I Vijay Kumar Chopra , Son of Late Lala Jagat Narain, hereby confirm that I have no objection to the filings, returns, registrations and declarations before your office being filed by Mrs Kiran Chopra, Mr Aditya Chopra, Mr Akash Chopra and Mr Arjun Chopra pertaining to Dainik Samachar Ltd. and the title Punjab Kesari, Delhi and additionally in such other territories that have fallen exclusively to the share of AKC Group Parties as per the Memorandum Recording Oral Family Settlement dated 16.07.2022.

Sincerely

19. In terms of Section 6 of the PRB Act, the title ‘*Punjab Kesari*’ is used by different groups of the same family, for the newspaper, which is published and distributed in different locations. In terms of the MoFS, dated 16th July, 2022 there is a clear division between the AKC and the VKC group which is clear from Clauses 9.1 and 9.2 of the MOFS. Clauses 9.1 and 9.2 are extracted herein below:

“9. TRADEMARK AND TERRITORY

9.1 AKC Group Parties shall retain the exclusive right, title and ownership in trade mark “**PUNJAB KESARI**” and/or “**DAILY PUNJAB KESARI**” along with exclusive publication and printing rights to the title “**PUNJAB KESARI**” and/or “**DAILY PUNJAB KESARI**” in respect of their territories namely Delhi, Uttarakhand, Madhya Pradesh, Chhattisgarh, Assam, Gujarat, Haryana (only in Bhiwani, Faridabad, Gurgaon, Mahindragarh and Rewari districts) and the districts of Uttar Pradesh mentioned hereinafter Saharanpur, Muzaffaragar, Meerut, Bijnor, Ghaziabad, Moradabad, Pilibhit, Rampur, Bareilly, Bijnor, Ghaziabad, Moradabad, Pilibhit, Rampur, Bareilly, Bulandshahr, Badaun, Shahjahanpur, Kheri, Aligarh, Etah, Sitapur, Bahraich, Mathura, Agra, Mainpur, Farrukhabad, Hardoi & Lucknow. (as existing in the year 2000 and their sub-division since then). In other words the present day divisions of Uttar Pradesh as follows: Agra, Aligarh, Ayodhya, Bareilly, Lucknow, Meerut, Mirzapur, Moradabad & Saharanpur.

9.2 VKC Group Parties shall retain the exclusive right, title and trademark to “**PUNJAB KESARI**” and/or “**DAILY PUNJAB KESARI**” along with exclusive publication and printing rights to the title ‘**PUNJAB KESARI**’ and/or “**DAILY PUNJAB KESARI**” in respect of their territories of Punjab, Haryana (except Bhiwani, Mahindragarh, Gurgaon, Faridabad and Rewari districts), Himachal Pradesh, Jammu and Kashmir, Ladakh, Chandigarh, Bihar, Jharkhand, West Bengal,

Maharashtra, Andhra Pradesh, Karnataka, Tamil Nadu, Orissa, Kerala, Nepal and the districts of Uttar Pradesh mentioned hereafter; Etawah, Kanpur rural, Kanpur Urban, Unnao, Barabanki, Gonda, Basti, Gorakhpur, Sultanpur, Mirzapur, Varanasi, Allahabad, Pratapgarh, Rae Bareilly, Fatehpur, Banda, Hamirpur, Jalaun, Jhansi & Lalitpur (as existing in the year 2000 and their sub-division since then). In other words the present day divisions of Uttar Pradesh as follows: Devipatan, Basti, Gorakhpur, Kanpur, Azamgarh, Jhansi, Chitrakoot, Prayagraj & Varanasi.”

20. The said division between the family members has been accepted by the NCLT and thus is legally binding on all parties. The RNI's stand that a fresh NOC would be required is therefore an approach which could create further complications. As on today, the Petitioners are publishing the newspaper in Delhi. There are various consequences that are attached to the owner/publisher/editor of a newspaper. The stalemate which is resulted due to non-registration of the Petitioners is far more perilous than the consequences of registration of the Petitioners. If any party has any objection, though unlikely, they could have raised an objection but admittedly no objection has been raised from any quarter.

21. The MoFS being admitted, the NOCs having being given both by the Owner as also the Printer, Publisher and Editor, there is, thus, no impediment in allowing the present Petitioner's application, as the owner of *Punjab Kesari-Delhi* edition and replacing the name of the earlier printer, publisher and editor in the name of the new person Mr. Anil Sharda, as per the application submitted by the Petitioners dated 19th September 2022. The Petitioner- Dainik Samachar's application accordingly, may be processed.

22. Further, in order to enable a final verification of facts or documents

by the RNI, the Petitioner- Dainik Samachar's representative shall appear before the RNI on 10th April, 2023. Upon verifying all the requisite documents, the application filed by the Petitioner shall proceed in terms of the Act and Rules.

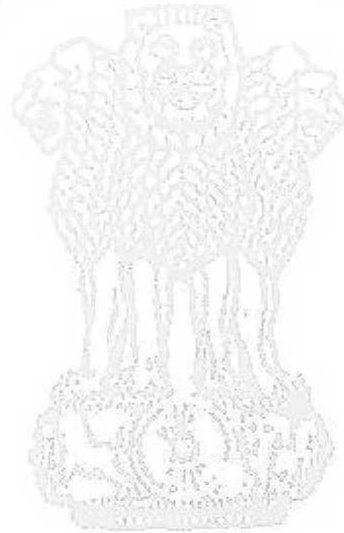
23. With these observations, the present petition, along with all pending applications are disposed of. *Dasti.*

PRATHIBA M. SINGH
JUDGE

MARCH 28, 2023

Rahul/dj/dn

HIGH COURT OF DELHI



सत्यमेव जयते