

**THE HIGH COURT OF SINDH, KARACHI**  
[COMPANY BENCH]

**J.C. Misc. No. 37 of 2022**  
**In the matter of the Companies Act, 2017**  
**And**  
**Farhan Estate (Pvt) Ltd.**

Petitioner : Imran Saboor through M/s. Ali Nawaz Kharal and Asadullah Jan, Advocates.

Respondent 1 : Securities and Exchange Commission of Pakistan through Syed Ebad-ur-Rehman, Advocate.

Respondent 2&3 : Farhan Estate (Pvt) Ltd. and Uzair Saboor through Mr. Zaheer Minhas, Advocate.

Respondent 4 : Nemo.

Date of hearing : 06-03-2025

Date of order : 25-03-2025

**ORDER**

**Adnan Iqbal Chaudhry J.** - This is an application under section 126 of the Companies Act, 2017 for rectification of the members' register maintained by the company, *Farhan Estate (Pvt.) Ltd.* (Respondent No.2) under section 119 of the Companies Act, 2017.

2. The two shareholders of the company were S.M. Saboor (Chief Executive) and his spouse Shahid Begum (Director). S.M. Saboor passed away on 29-12-2015. Purportedly on the same day, Shahida Begum transferred 100 shares to one of her sons, namely Respondent No.3, who was then appointed Chief Executive of the company. The return for these changes was filed by the company with the SECP in December 2017. The Petitioner is the brother of Respondent No.3 and the son of late S.M. Saboor [**the Deceased**]. He was apparently irked when he found out that Respondent No.3 had surreptitiously become member and Chief Executive of the company after the passing of their

father. The Applicant complained to the SECP. However, since the thrust of his complaint was the appointment of Respondent No.3 as Chief Executive, the SECP asked him to approach the Court for redress.

3. In filing this application under section 126 of the Companies Act, 2017 **[the Act]**, two distinct prayers are made by the Applicant. The first, for the rectification of the members' register to reflect shares inherited by him from the Deceased; and second, for challenging the appointment of Respondent No.3 as Chief Executive of the company. However, at the hearing, learned counsel for the Applicant conceded that the latter prayer was beyond the scope of section 126 of the Act and confined his submissions to the prayer for rectification of the members' register.

4. Learned counsel for Respondents 2 and 3 submitted that the application was time-barred. He relied on the case of *Bentonite Pakistan Ltd. v. Bankers Equity Ltd.* (2023 SCMR 1353) where a three-member Bench of the Supreme Court while dealing with an application under section 316 of the Companies Ordinance, 1984, held that limitation for 'all applications' under the Companies Act, 2017 would be governed by Article 181 of the Limitation Act, 1908. On the other hand, learned counsel for the Applicant cited *Naila Naeem Younus v. Indus Services Ltd.* (2022 SCMR 1171) where a two-member Bench of the Supreme Court held categorically for an application under section 126 of the Companies Act, 2017 that the Limitation Act was not applicable. Though *Bentonite* is by a larger Bench, it is a leave-refusing order, and therefore it needs to be considered whether it is binding precedent in terms of Article 189 of the Constitution of Pakistan, and if so, whether it also applies to an application seeking transmission of shares inherited from a deceased Muslim. However, for the present, I need not examine that aspect.

5. Even if Article 181 of the Limitation Act applies to an application under section 126 of the Companies Act, the period of

three years therein begins from the date “when the right to apply accrues”. For rectification of the members’ register the right to apply accrues on events set-out in section 126 of the Act itself *viz:*

“If –

- (a) the name of any person is fraudulently or without sufficient cause entered in or omitted from the register of members or register of debenture-holders of a company; or
- (b) default is made or unnecessary delay takes place in entering on the register of members or register of debenture-holders the fact of the person having become or ceased to be a member or debenture-holder;”

6. In the facts of the present case, the shares of the Deceased still stand in his name in the members’ register. Those shares have not been transmitted to any legal heir. Respondents 2 and 3 do not deny that the Applicant inherits certain shares as a son of the Deceased. Rather, their case seems to be that the Applicant never formally applied to the company under section 78 of the Act for transmission of those shares. Therefore, the right to apply for transmission of those shares still subsists with the Applicant. Learned counsel for Respondents 2 and 3 was asked whether they have any objection to the transmission of shares of the Deceased to all his legal heirs including the Applicant. He has filed a statement that they do not object.

7. In the aforesaid circumstances, this application is disposed of by directing the Respondents 2 and 3 to transmit shares of late S.M. Saboor in the company to all his legal heirs as per Sharia within 15 days and file notice/return of such transmission with the Registrar of Companies along with a certified copy of this order.

**JUDGE**

Karachi:

Dated: 25-03-2025