IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3398 OF 2014

Aditi Sachin Mhatre … Petitioner

Vs

Sachin Ramesh Mhatre … Respondent

CIVIL APPLICATION NO.116 OF 2015
IN
WRIT PETITION NO.3398 OF 2014

Reliance Securities Ltd. … Applicant

IN THE MATTER BETWEEN
Aditi Sachin Mhatre … Petitioner

Vs

Sachin Ramesh Mhatre … Respondent

Mr.P.G. Lad for Petitioner
Mr.Mikhal Behl i/b M/s.Thakore Jariwala & Asso. For Applicant in CAW/116/2015
Mr.Pradeep Chavan a/w Ms.Ashiwin Borade i/b Pradeep Chavan & Asso. for Respondent

CORAM: **MRS.MRIDULA BHATKAR, J.**

ORDER RESERVED ON: **NOVEMBER 21, 2015**
ORDER DELIVERED ON: **DECEMBER 2, 2015**

ORDER:

1. Rule. By consent of the parties, Rule made returnable forthwith and heard finally at the stage of admission.

2. This Writ Petition is filed by the petitioner/wife challenging the order passed by the Family Court dated 3.2.2014 below exhibit 6 in original petition No.B-1/2013 filed by the respondent/husband. The respondent/husband, who is the original petitioner, filed application seeking permission to rent out suit flats Nos.A-903, Ganraj Heights, Kolbad road, near Vikas complex, Thane and to enter into supplementary agreement with the Developer in respect of flat No.25, Jeevantara, Ravi Compound, Naupada, Thane. He has also sought directions to defreeze the demat accounts which were frozen by the petitioner/wife. The said application was allowed by the learned Principal Judge, Family Court, Thane. Hence, this Writ Petition.

3. Thus, the petition includes directions on 3 points in respect of flat No.25, Jeevantara CHS. The other Writ Petitions i.e., Writ Petition Nos.6739 of 2015 and 6740 of 2015 are filed by M/s.Aditya Associates, the Developer, challenging the order dated 27.5.2015 passed by the learned Judge of the Family Court in respect of flat No.25 of Jeevantara CHS. In the said petitions, Rule is made absolute and the said order of the learned Family Court is set aside. As the issues involved in those petitions and the third direction given by the learned Principal Judge of the Family Court in the order is under challenge dated 3.2.2014, I set aside the operative clause (5) in the impugned order i.e., directions given to the

petitioner/wife to enter into supplementary agreement with the Developer in respect of flat No.25, Jeevantara CHS and directing the petitioner to make payment for the additional area of the flat, if required. So I need not go into the reasons to avoid repetition in this petition as it is already discussed in those petitions. Thus, only two issues are considered in this petition which pertain to flat No.A-903, Ganraj Heights in respect of defreezing the share accounts.

4. Mr.Lad, the learned Counsel appearing for the petitioner/wife, submitted that in the order dated 3.2.2014, the Family Court has allowed the petitioner to give the said flat on rent and the respondent was to cooperate with the petitioner and the amount of rent so received was to be invested in the name of the minor Atharva. Mr.Lad submitted that the said flat stands in the names of the wife and the husband. By allowing the petitioner to give the flat on rental basis, the Court has accepted the right of the petitioner/husband in the said flat and has denied the right of the wife to deal with the property as she wanted. He submitted that if at all the flat is given on rental basis, and in the event the tenant or licensee does not vacate the said flat in future, then, the respondent wife will lose the property. Hence, the safety in respect of possession of the said flat is not at all secured by such order. He therefore submitted that If at all the flat is taken by the Court Receiver, then there is assurance of getting it back in the same condition. Mr.Lad further submitted that the second operative

part pertains to shares of Reliance and Ventura Securities Ltd. He submitted that all these shares are in the name of the wife which is wroth Rs.1.5 crore out of which the husband has already disposed off shares to the tune of Rs.80,000/-. The wife has purchased the shares out of her earnings. She is conversant with share trading. However, the Family Court is not justified in allowing the husband to operate her account for the purpose of investment.

5. In reply, Mr.Pradeep Chavan, the learned Counsel for the respondent/husband, submitted that the flat in Ganraj Heights stands in the joint names of the petitioner and the respondent. However, the said flat is purchased out of the income of the respondent/husband exclusively and, therefore, the petitioner/wife has no right over it. The respondent/husband will not touch the income earned out of the rent collected from this flat and it will be used finally on the expenses of their son. He further submitted that the demat account stands in the joint name. All the shares were purchased initially in the year 2006 by investing an amount of nearly Rs.65 lacs by the husband. He further submitted that the husband has opened this account during the period before their marriage and during the period of courting. He submitted that the petitioner/wife has not knowledge of the investment and her money is not at all invested in the shares. He further submitted that if at all losses are suffered in the investment of the shares of Rs.1,50,00,000/-, then, the

respondent/husband will make good of it and all these investments are done by the respondent/husband for their son and the petitioner/wife has no right over the investments. Therefore, the order passed by the learned Judge of the Family Court defreezing the account is correct.

6. In this Writ Petition, Civil Application No.116 of 2015 is filed by applicant Reliance Securities Ltd as an intervener. It was submitted that the applicant is a trading member of the National Stock Exchange and Bombay Stock Exchange and is a registered broker. It is submitted that the petitioner/wife holds account with the applicant having account No.A0000062 linked to DP ID 1304140000001321. It is submitted that this applicant as per the rights and obligations of Stock brokers as prescribed by the SEBI and Stock Exchange's termination of relationship of Member-Client agreement, was informed and it was necessary to terminate the said account with immediate effect and so the applicant has given one month's notice to both the parties to get the shareholdings from the said demat account transferred to other demat account. He submitted that there should not be any violation on the part of the applicant/Reliance Securities Ltd and therefore, moved this application before the Court. He prays that the order dated 30.12.2014 passed by the Family Court be set aside.

7. In respect of flat at Ganraj Heights, the impugned order passed by the Family Court is maintained with some modification. The said flat is to be given on leave and licence basis by registered agreement and the licence fee paid to the respondent/husband is to be deposited in a separate account and the details of the lessee and the copy of the said agreement and the details of the account as to the number, etc. is to be communicated to the petitioner/wife.

8. The second challenge pertains to the share transactions. The demat account stands in the name of the petitioner/wife as first name is mentioned of the petitioner/wife. However, the learned Counsel for the respondent/husband pointed out two documents supporting his submissions that the demat account was opened at the instance of the husband during the period of their courtship. The trading account discloses the date as 2.8.2006 which stands in the name of Aditi Shete @ Aditi Mhatre. The parties got married in 2006 and the demat opening form discloses the date 1.8.2006 which shows that it was in the name of Aditi and second name is mentioned as Sachin Mhatre. Thus, it shows that before their marriage, this account was opened. A copy of the statement of the Chartered Accountants D.A. Oak & Co. is produced on record. It appears from the record that the initial amount of nearly Rs.65 lacs was invested by the respondent/husband in the share market. From the submissions of Mr.Lad, it is gathered that the petitioner/wife is qualified as

she holds the degree of Masters in Business Administration and is also holding a responsible post in a company and drawing a good salary. However, the respondent/husband is a businessman and his annual turnover appears to be much more than the annual income of a salaried person like the petitioner/wife. Nothing is brought on record on the part of the petitioner/wife to show that she has invested amount from her income exclusively in the share market. The parties may lead evidence at the time of the trial. However, at this stage, therefore, the order passed by the learned Judge of the Family Court directing to defreeze the account is found correct and is not to be disturbed. It is made clear that the respondent/husband is very much concerned about the financial security and stability of his minor son, who is six yeas old and, therefore, it appears that the petitioner/father will not misuse the amount of these shares but will invest in the interest of the child only.

9. The petition is thus, partly allowed and disposed of accordingly.

10. In view of disposal of the appeal, Civil Application stands disposed of.

(MRS.MRIDULA BHATKAR, J.)