IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.181 OF 2015
IN
APPEAL NO.156 OF 2015

Sharekhan Limited ... Applicant
versus
Rajesh Shah and another ... Respondents

Mr.Rohan Cama with Mr.Deepak Sharma for Applicant.
Mr.Zal Andhyarujina with Ms.Prachi Pandya i/by Corporate Attorneys for Respondent.

CORAM : MOHIT S. SHAH, C.J. AND
B.P.COLABAWALLA, J.

DATE : 26 February 2015

PC :

The respondents herein (original claimants) succeeded before the arbitral tribunal and when the Applicant herein challenged the arbitral award in a petition under Section 34 of the Arbitration & Conciliation Act, 1996, the said petitions came to be dismissed by the learned Single Judge. The appeal is admitted and the National Stock Exchange was directed to invest the amounts, which it held pursuant to the award of arbitral tribunal with interest, in a long term fixed deposit with any nationalized bank and the respondent herein (original claimant) was permitted to withdraw the periodical interest to be accrued on such long term deposit, subject to the condition that the respondent shall file an undertaking in this Court to return the amount of interest to the Applicant/Appellant in case the appeal is allowed and respondent is directed to return the amount of interest.

2. In the present Notice of Motion, the respondent (original claimant) has contended that since he has succeeded before the arbitral tribunal, in the appeal before the appellate panel of arbitrators under the Rules of National Stock Exchange of India Limited and also before the learned Single Judge in Section 34 petition, he may be permitted to withdraw the amounts on furnishing security to the satisfaction of Prothonotary & Senior Master of this court.

3. Learned counsel for Applicant/Appellant opposes the prayer. However, having heard the learned counsel for the parties, we are of the view that the respondent in the appeal is required to be permitted to withdraw the amounts lying invested in fixed deposit by National Stock Exchange of India Limited on furnishing security to the satisfaction of Prothonotary & Senior Master of this Court.

4. In view of the above, the Notice of Motion No.181 of 2015 is allowed and the respondent (original claimant) is allowed to withdraw the amounts lying in the fixed deposit with

the nationalized bank upon furnishing security to the satisfaction of Prothonotary & Senior Master of this Court and also on furnishing an undertaking to this Court that in case the Applicant/Appellant succeeds in the appeal and the respondent being required to refund such amounts, the respondent will refund such amounts within such time and with such rate of interest as may be directed by this Court.

5. It is clarified that such security need not be in the form of a bank guarantee/s. It is further clarified that before accepting the security, the Prothonotary & Senior Master shall also give an opportunity of hearing to the Applicant/Appellant. Once the Prothonotary & Senior Master accepts the security, he will give necessary intimation to the National Stock Exchange of India Limited. Notice of Motion stands disposed of.

(CHIEF JUSTICE)

(B.P.COLABAWALLA, J.)

MST