

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

**WRIT PETITION NO. 709 OF 1998
WITH
NOTICE OF MOTION NO. 71 OF 2005
IN
WRIT PETITION NO. 709 OF 1998**

The Stock Exchange ..Petitioner/Applicant
Vs.
Atul Pranay and Ors. ..Respondents

**WITH
WRIT PETITION NO. 572 OF 2000**

The Stock Exchange ..Petitioner
Vs.
Brajabandhu Nahak and Ors. ..Respondents

**WITH
WRIT PETITION NO. 606 OF 2000**

The Stock Exchange ..Petitioner
Vs.
Brij Bandhu Nahak and Ors. ..Respondents

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Mr.Kinshuk Banarjee a/w Yuvraj Chokshi, Advocates i/b Wadia
Ghandy & Co. for Petitioner.
Mr. A.R. Malhotra, Advocate for Respondent.
Mr. Surin Usgaonkar a/w A.K. Goel, Advocates for Respondent No.4
in WP 709/98.

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**CORAM : M.S. SANKLECHA &
G.S. KULKARNI, JJ.
DATED : 15 OCTOBER 2015**

P.C.:

Writ Petition No. 606/2000 is not on board. Mentioned. Upon mentioning taken on board for hearing along with Writ Petition Nos. 709/1998 and 572/2000.

2. These petitions under Article 226 of the Constitution of India challenge the independent notices issued by the Respondent Nos.1 and 2-Officers of the Income Tax Department in each of the petitions. The impugned notices seek to attach the membership card used by the defaulting members-Respondent No.4 in each of the petitions, which vested in petitioner-Exchange.

3. The Apex Court by an order dated 25 September 2014 in *Bombay Stock Exchange Vs. B.S. Kandalgaonkar*¹ held that membership card of a stock exchange is only a personal privilege granted to a member and cannot be attached by Income Tax Department at any stage. The Apex Court observed that at no point of time does the member of the stock exchange own any property in the membership card which is capable of attachment.

1. 2015(2) SCC 1

4. Accordingly, the issues arising in these petitions are conclusively decided in favour of the petitioner by decision of the Supreme Court in B.S. Kandalgaonker (supra).

5. Thus all three petitions are allowed in terms of prayer clause 'A' in each of them.

6. In view of the above, the Notice of Motion No. 71/2005 in Writ Petition No. 709/1998 does not survive and is dismissed as infructuous.

[G.S. KULKARNI, J]

[M.S. SANKLECHA, J.]