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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
**NOTICE OF MOTION (L)NO.668 OF 2016 IN
APPEAL (L)NO.660 OF 2015**

East River Holdings Limited ...Applicant

In the matter between

Gokul Patnaik ...Appellant

vs.

Standard Chartered Bank & Ors. ...Respondents

**NOTICE OF MOTION (L)NO.666 OF 2016 IN
APPEAL (L)NO.662 OF 2015**

Starship Equity Holding Limited ...Applicant

In the matter between

Vector Program Private Limited

vs.

Standard Chartered Bank & Ors. ...Respondents

Mr.Mehul Shah a/w Swapnali Desai for the appellant
in APP(L) NO. 662 of 2015

Mr.Swarup Anand i/b Sangram Singh Yadav for the
appellant in APP(L) no. 660 OF 2015

Mr.Sandeep Bhimekar, Mr.Dinesh Parmar, Mr.Indrajeet
Bhosale i/b R.M.Tiwari for the respondent No.5 in
APP(L) No. 662/2015

Mr.Aspi Chinoy, Senior Counsel i/b Shailesh
Kantharia for the respondent No.4 in APP(L)662/2015
and for the Applicant in Notices of Motion(L)
No.666/2016

Mr.Krishnan, Senior Counsel a/w Ms P.T.Asha i/b
Shital Tusakhia for the respondent No.3 in APP(L)
No. 662/2015

Mr.Tushar Cooper a/w Mr.Parikshit Desai i/b
Vikramsinh Yadav for the respondent Nos.1 and 2 in
both appeals

Mr.Janak Dwarkadas, Senior Counsel a/w Mr.Ankita
Singhanian i/b Mr.Abhishek Patil for the respondent
No.4 in APP(L) No. 660/2015 and for the Applicant in
Notice of Motion(L) No.668/2016

CORAM : A.S.OKA, &
SMT.ANUJA PRABHUDESSAI, JJ.
DATE : DECEMBER 9, 2016

ORAL JUDGMENT: (PER A.S.OKA, J.)

1 These Notices of Motion have been taken out against the appellant in both the appeals by the fourth respondent in Appeals essentially praying for an action under Rule 2A of Order XXXIX of the Code of Civil Procedure, 1908. The allegation is of willful breach and disobedience of the order dated 15th January 2016 passed in the appeals. The second prayer in the Notice of Motion is for exercising the power under Rule 11 of Order XXXIX of the said Code by dismissing the suit filed by the appellant in both the appeals. There are other prayers such as a prayer directing the appellants to disclose on oath the properties belonging to them located within the jurisdiction of this Court.

2 The present appeals have been preferred by the appellants who are the original plaintiffs for challenging the orders dated 31st July 2015 passed by the learned Single Judge of this Court on the Notices of Motion filed for interim relief by the respective appellants in their separate suits. By the said orders, the learned Single Judge proceeded to dismiss both the Notices of Motion.

3 The order which is material for deciding the present Notices of Motion is the common order dated 15th January 2016 passed on Notice of Motion No.2274

of 2015 in Appeal (L) No.660 of 2015 and Notice of Motion No.2276 of 2015 in Appeal (L) No.662 of 2015. These two Notices of Motion were taken out by the contesting respondents. It will be necessary to make a reference to the interim order made by the Division Bench of this Court under the order dated 15th January 2016. Clauses (i) to (vi) of paragraph 4 of the said order read thus:

“(i) Firstly, so far as voting rights are concerned, learned senior counsel Mr.Darius Khambatta appearing on behalf of the Appellants submits that the Appellants shall not exercise voting rights at the AGM to be held on 29th January 2016. This statement made on behalf of the Appellants is accepted.

(ii) Secondly, so far as bonus shares and dividend which may be announced are concerned, the said bonus shares and dividend may be deposited in this Court, pending the hearing and final disposal of the appeal.

(iii) Thirdly, the Appellants shall not hand over and/or transfer the shares which are in dispute, and are pending in the escrow account to any other party.

(iv) The Respondent-Bank shall not transfer the shares during pendency of the appeal.

(v) The entitlement of the Appellants to claim the shares is in dispute and will have to be decided in the appeals. Since the entitlement of Appellants in respect of the shares will be decided in the Appeals, the

accretions which would accrue on these shares would be subject to the orders that may be passed in the appeals.

(vi) We propose to expedite hearing of the appeals so that the entire issue can be resolved. Hence, place the appeals for hearing on 9th February 2016 at 1.00 p.m."

(underline supplied)

4 Thus, a categorical statement was made on behalf of the Appellants in both the appeals before the Division Bench. The statement was that the appellants shall not exercise voting rights in the Annual General Meeting to be held on 29th January 2016. The said statement made by the appellants was specifically accepted by the Division Bench under the order dated 15th January 2016. Therefore, the aforesaid statement made by both the appellants is their undertaking given to this Court which was accepted by this Court.

5 Now, coming to the present Notices of Motion, the breach alleged is of the aforesaid undertaking of the appellants recorded in the order dated 15th January 2015. The allegation made in the Notices of Motion is that in breach of the undertaking, the appellants exercised their right of voting in the Annual General Meeting (for short "AGM"). It is an admitted position that both the appellants did cast their respective votes via e-voting process at the AGM of the Respondent No.5 Bank which was held on 29th January 2016. The allegation is that the said

breach of undertaking on the part of the appellants is deliberate, willful and intentional. Reliance is placed in the Notice of Motion on affidavits filed on behalf of both the appellants which are dated 9th February 2016. The affidavits were filed by Shri Anand Subramanian, the constituted attorney of the appellants. In the said affidavits, it was accepted that contrary to the statement made by the appellants which is recorded in the order dated 15th January 2016, the appellants exercised their right right of voting by via e-voting process at the AGM held on 29th January 2016. In the said affidavit, Shri Subramanian stated that the votes cast by the appellants will not be counted and the same shall be invalid. An unconditional apology was tendered by the said constituted attorney of the appellants. The applicants in the Notices of Motion (fourth respondent in the appeals) were served with copies of the affidavits in reply in April 2016. In Notice of Motion (L) No.668 of 2016, the appellant in appeal (L) No.660 of 2015 Shri Gokul Patnaik filed an affidavit in reply which was affirmed before a Notary Public on 31st March 2016. In Notice of Motion (L) No.666 of 2016 in Appeal (L) No.662 of 2015, the Director of the Appellant therein Shri Surya Kathpalia affirmed an affidavit in reply on 18th March 2016 before a Notary Public. In both the affidavits, though apology was tendered, it was sought to be contended that there was no willful default or breach on their part and certain justification was offered for the breach.

6 We may note here that the copies of the said affidavits-in-reply were served to the applicants in both the Notices of Motion on 5th April 2016. Accordingly, the affidavits in rejoinder were filed in both the Notices of Motion on 16th April 2016 on behalf of the applicants (the respondent No.4 in appeal). On 28th April 2016, additional affidavits were filed on behalf of the applicants in support of the Notices of Motion. We may note here that ultimately the aforesaid affidavits in reply in both the Notices of Motion were tendered to this Court by the learned counsel for the appellants on 7th December 2016. As can be seen from the farad sheet, repeated adjournments were sought by the appellants when the present Notices of Motion were fixed for hearing. By the order dated 15th November 2016, this Court directed that the present Notices of Motion will be fixed for hearing on 28th November 2016. On 28th November 2016, by way of indulgence, adjournment was granted to the appellants till 7th December 2016. On 7th December 2016, an adjournment was again sought on behalf of the appellants. What transpired on that day is recorded in the order dated 7th December 2016. The submissions of the learned senior counsel on behalf of the applicants in support of the Notices of Motion were heard on that day and to enable the learned counsel for the appellants to respond, the Notices of Motion was adjourned till today. We may note here that notwithstanding the specific direction issued under the order dated 28th November 2016, on 7th December 2016, the appellant in

Appeal (L) No.660 of 2015 was not present. Today, there are additional affidavits affirmed and tendered on record by both the appellants. In the said additional affidavits, unconditional apology has been tendered by both of them for exercising voting rights in the AGM held on 29th January 2016.

7 The learned senior counsel appearing for the applicants has taken us through the orders of this Court, affidavits in reply filed in both the appeals affirmed in March 2016, affidavits in rejoinder and additional affidavits filed by the applicants. The submission is that the apology offered by the affidavits dated 9th February 2016 was not bona fide. He invited our attention to the assertions made in the affidavits in reply by which an attempt was made to come out with an excuse for the admitted breach of the undertakings. Inviting our attention to the relevant part of the rejoinder and additional affidavit of the applicants, he pointed out that the excuses set out by the appellants are utterly false. He urged that the fact that the appellants came out with false excuses shows that an attempt to tender an apology by tendering additional affidavits today is not at all bona fide. He placed reliance on the decision of the Apex Court in the case of Delhi Development Authority vs. Skipper Construction and another¹.

8 The learned counsel for the appellants have made submissions. Their contention is that at the

1 (1995) 3 SCC 507

outset on 9th February 2016, an affidavit of apology was filed in which a statement was made that votes tendered by them shall not be counted. The learned counsel for the appellants submitted that even in the affidavits filed today, an unconditional apology has been tendered. As an apology was tendered at the earliest on 9th February 2016, it is apparent that there is no willful breach or disobedience on the part of the appellants. Various submissions are made as regards the delay in tendering affidavit affirmed in March 2016 on record which were tendered on 7th December 2016. We are not referring to the said submissions as the same have nothing to do with the merits. The learned counsel representing the appellants pray that by accepting the apology, the Notices of Motion be disposed of without taking any action against the appellants.

9 We have given careful consideration to the submission. It is an admitted position that contrary to the solemn undertakings of the appellants recorded in the order dated 15th January 2016, the appellants have exercised their voting rights at the AGM of the fifth respondent which was to be held on 29th January 2016. Thus, admittedly, the appellants in both the appeals have committed a breach of the undertakings by exercising voting rights. An action was sought by way of the present Notice of Motion under Rules 2A and 11 of Order XXXIX. We may note here that Rule 11 of Order XXXIX is brought on the statute book with effect from 1st October 1983 in the State of Maharashtra. Rule 2A

confers power on the Court to punish a person for committing disobedience or breach of the order of injunction. Rule 2A of Order XXXIX the said Code reads thus:

"2-A Consequence of disobedience or breach of injunction -

- (1) In the case of disobedience of any injunction granted or other order made under rule 1 or rule 2 or breach of any of the terms on which the injunction was granted or the order made, the Court granting the injunction or making the order, or any Court to which the suit or proceedings is transferred, may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in the civil prison for a term not exceeding three months, unless in the meantime the Court directs his release.
- (2) No attachment made under this rule shall remain in force for more than one year, at the end of which time, if the disobedience or breach continues, the property attached may be sold and out of the proceeds the Court may award such compensation as it thinks fit to the injured party and shall pay the balance, if any, to the party entitled thereto.

Rule 11 of Order XXXIX of the said Code reads thus:

"11 Procedure on parties defying orders of Court and committing breach of undertakings

to the Court -

(1) Where the Court orders any party to a suit or proceeding to do or not to do a thing during the pendency of the suit or proceeding, or **where any party to a suit or proceeding gives any undertaking to the Court to do or to refrain from doing a thing during the pendency of the suit or proceeding, and such party commits any default in respect of or contravenes such order or commits a breach of such undertaking, the Court may dismiss the suit or proceedings, if the default or contravention or breach is committed by the plaintiff or the applicant, or strike out the defences, if the default or contravention or breach is committed by the defendant or the opponent.**

(2) The Court may, on sufficient cause being shown and on such terms and conditions as it may deem fit to impose, restore the suit or proceeding or may hear the party in defence, as the case may be, if the party that has been responsible for the default or contravention or breach as aforesaid makes amends for the default or contravention or breach to the satisfaction of the Court:

Provided that before passing any order under this sub-rule notice shall be given to the parties likely to be affected by the order to be passed."

(emphasis added)

10 Sub-Rule 1 of Rule 11 of Order XXXIX provides that in case of a breach of an undertaking given to the Court by a plaintiff during the pendency of the suit or proceedings, the Court may dismiss the suit or proceeding.

11 We have already reproduced Rule 2A above. Sub-Rule 1 thereof makes it very clear that the same is attracted in the event when there is a breach of the terms on which injunction was granted. We have reproduced order dated 15th January 2016. The Notices of Motion were taken out by the fourth respondent in appeals (present applicants) for grant of interim relief. The statement of the appellant recorded in the order is certainly a condition on the basis of which the said order of interim relief was passed by this Court.

12 On 9th February 2016, an affidavit was filed by Shri Anand Subramanian, the Constituted Attorney of the appellants clearly admitting that there was breach committed by exercising the right of voting. An unconditional apology was tendered by him. It is pertinent to note that the appellant in Appeal (L) No.660/2016 did not personally file an affidavit tendering an unconditional apology. Even the Director of the appellant company in Appeal (L) No.662/2016 did not file any such affidavit tendering unconditional apology. As noted earlier, the affidavits tendering apology were tendered today after the submissions of the applicants in support of the present Notices of Motion were heard on the

last date. In both the Notices of Motion, a reply came to be affirmed in March 2016 by the appellants.

13 It will be necessary to set out the stand taken in the said affidavits in reply of March 2016. It is not in dispute that the right of voting was exercised by both the appellants via e-voting. The said right was exercised at about 3.20 p.m on 29th January 2016. In both the affidavits in reply, the main contention which is raised is in paragraph 2 thereof. Paragraph 2 of the said affidavit in reply of the appellant in Appeal (L) No. 660 of 2015 reads thus:

"2 I say that the Appellant was under a genuine and bona fide impression and mistaken belief (which I have now realized) that I could vote at the AGM to be held on January 29, 2016 in view of the subsequent Order dated January 27, 2016 passed by the Hon'ble Supreme Court in IA No.4 of 2016 in TP © No.1381 of 2014 ("the said subsequent Order") and other connected matters. Hereto annexed and marked as Exhibit-1 is a copy of the order dated January 27, 2016 passed by the Hon'ble Supreme Court."

(emphasis added)

14 The reply of the appellant in the other Appeal is the same. Though the Constituted Attorney of the appellants purported to tender an unconditional apology on 9th February 2016 by filing affidavits, in March 2016, the appellants came out with the

aforesaid justification for the breach. The purported justification is based on the order of the Apex Court dated 27th January 2016 passed on interim application in transfer petition. The excuse is that the appellant was under a genuine and bona fide impression and mistaken belief that in the light of the of the order of Apex Court, they could exercise right of voting. Keeping aside the controversy whether on 27th January 2016, when the right of voting was exercised through e-voting, both the appellants were aware of the decision of the Apex Court, on plain reading of the order of the Apex Court dated 27th January 2016, we find that there is absolutely nothing in the said order which could have created an impression that the appellants could exercise their right of voting. No prudent person could have carried such an impression. In the said order of the Apex Court, it is noted that the AGM has been convened in furtherance of the directions issued by the Madras High Court and the e-voting commenced on 27th January 2016 which will continue up to 28th January 2016. It is further observed that the proceedings of the said meeting should be permitted to continue, but, the decision taken thereon should be placed in a sealed cover which will be subject to final decision of the proceedings before the Division Bench of the Madras High Court. Thus, the Apex Court expressly permitted the proceedings of AGM to go on. The Apex Court directed that the decision to be taken in the meeting shall be subject to the final order which may be passed in the proceedings pending before the Madras

High Court at Chennai. In the affidavit in rejoinder and in the additional affidavit filed by the fourth respondent in the appeals (applicants in the Notice of Motion), it is pointed out that the said order dated 27th January 2016 of the Apex Court was uploaded after 17.14.10 on 28th January 2016 as it was digitally signed at 17.14.10 on 28th January 2016. Thus, when the appellants exercised their right of voting, the order of the Apex Court was not even uploaded and obviously, a copy thereof was not available. In the light of this factual position that the excuse set out in paragraph 2 above in both the affidavits-in-reply will have to be considered. What is interesting is the assertions made in paragraph 6 of both the affidavits in reply filed by both the appellants. In paragraph 6, the appellant in Appeal(L) No.660 of 2015 has stated thus:

"6 I say that the Order of the Hon'ble Supreme Court was only received by me just before the casting of the vote and since there were serious rumors of the rampant misuse of passwords given for e-voting, I panicked and casted my vote in panic and due to the aforesaid mistaken belief that I could vote at the AGM. Furthermore, though not relevant for the present purpose, the apprehension of the appellant, of misuse of passwords at the AGM proved to be correct because although the vote casted by me was a secret vote, it had become public and the respondent Nos.3 and 4 were aware of the same

and it is for this reason that the emails dated February 4, 2016 and February 8, 2016 were addressed."

(Underline added)

Thus, the statement made in paragraph 6 that the order of the Apex Court dated 27th January 2016 was received by the appellants just before they exercised right of voting is factually a false statement. We made a query to the learned counsel for the appellants as to how such a statement has been made. We expected the appellants to fairly accept that the said statement was incorrect. However, the learned counsel for the appellants on instructions of the appellants came out with another excuse that the order was received by way of a 'Whats App' message by the appellants. Obviously, a copy of the order of the Apex Court was not at all available till the appellants exercised their right of voting. Even today, there was an opportunity for the appellants to tender an apology for making a false statement that the order of the Apex Court was received by them just before they exercised right of voting. Instead of availing an opportunity of tendering apology at the outset, today the appellants have come out that the case that the gist of the order was received as a 'Whats App' message. The contents of the alleged "Whats App" message have not been disclosed. The source from which this message was received is also not disclosed. We must note here that on 7th December 2016, a specific submission was made by the applicants that the said statement was false. The submission was made in

presence of the learned counsel who argued the matters today on behalf of the appellants. Secondly, the excuse which is set out in paragraph 6 that there were serious rumors of rampant misuse of passwords given for e-voting appears to be frivolous. Again it is reiterated that in the light of the order of the Apex Court, the appellants were under an impression that they could vote in AGM. The alleged rumors regarding misuse of passwords cannot give a licence to blatantly commit a gross breach of the solemn undertaking given to this Court.

15 In any event, even assuming that the gist of the order of the Apex Court was communicated to the appellants by someone, there was no reason to exercise the right of voting on the basis of the said order. The order does not permit the Appellants to vote. As noted earlier, the order is crystal clear. It is not the case made out by the appellants that the gist allegedly communicated by someone through 'Whats App' was incorrect or misleading.

16 Thus, the scenario which emerges is that by filing affidavits in reply in March 2016, the appellants attempted to justify their action of committing a breach of undertaking given to this Court by coming out with an excuse. Secondly, the factual basis for the said excuse is found to be completely false. Thus, it is clear that the so called apology tendered on 9th February 2016 by the

Constituted Attorney of the appellants was not at all bona fide as the appellants in their affidavits filed in March 2016 came out with a justification for the breach .

17 Today, an attempt is made to tender additional affidavits of the appellant in Appeal (L) No.660 of 2015 and the Director of the appellants in Appeal (L) No.662 of 2015 containing unconditional apology. In paragraph 2 of the said affidavits, it is stated that the votes were not counted in accordance with the undertaking in the affidavit of Shri Anand Subramanian dated 9th February 2016. However, there is absolutely no explanation whatsoever about the statements made in the affidavits-in reply of March 2016 by both the appellants. The falsity of the said statements and its frivolous nature was specifically argued before this Court on 7th December 2016 by the learned counsel for the applicants. However, no remorse has been shown while filing an additional affidavits today in which they have purported to tender an unconditional apology.

18 At this stage, we may make useful reference to the decision of the Apex Court in the case of Delhi Development Authority (supra) and in particular what is held by the Apex Court in paragraph 67. Paragraph 67 reads thus:

"67 In considering whether the action of the contemnors amounted to contempt of court, we take into account the entire course of

conduct of the contemnors. As our order dated 25.1.1995 would disclose, the contemnors have indulged in judicial adventurism by raiding one court or the other. Each of such raids is a clear abuse of process of court calculated to obstruct the due course of judicial proceeding and the administration of justice. Thus, we conclude that the contemnors are guilty of contempt of court. No doubt, the contemnors have tendered apology. This apology is coming forth after sensing that the adventures have turned out to be misadventures, realising that the contemnors have ended up in a cul-de-sac. **An apology is not a weapon of defence forged to purge the guilt of the offences nor is it intended to operate as a panacea. It is intended to be evidence of real contriteness, the manly consciousness of a wrong done, of an injury inflicted, and the earnest desire to make such reparation as lies in the wrongdoer's power. We do not find the apology to be so in this case. The conduct of contemnors is highly reprehensible.** The question now is what sentence we should impose on the contemnors. Here, it is necessary to bear in mind that the second respondent is the wife of the first respondent. She does not seem to have played any active role in all these transactions and events. As an Indian wife, dutiful and obedient, she seems to have only

followed the dictates and desires of her husband. In the process she has done no more than lending her name both as a Director to Skipper as well as to the various acts done by him in the name of the company. It will be unrealistic to ignore this fact against our social background. We must therefore take a pragmatic view of the matter and distinguish her case from that of her husband as far as the punishment to be imposed on them is concerned. Such a distinction will in no way minimise the gravity of the contempt that she has committed.

19 After making the aforesaid observation in paragraph 71 the Apex Court proceeded to observe thus:

"71 Judiciary is the bedrock and handmaid of orderly life and civilised society. If the people would lose faith in justice imparted by the highest Court of the land, woe be to orderly life. The fragment of civilised society would get broken up and crumble down."

20 As narrated earlier, apology sought to be tendered on 9th February 2016 and apology sought to be tendered today by filing additional affidavit is not at all bona fide. In fact, today, there is an attempt made to justify the false explanation for committing breach in the affidavits affirmed in

March 2016.

21 Today, during the course of submissions, a leave was sought by the learned counsel for the appellants to withdraw the affidavit affirmed by the appellant in Appeal (L) No.660 of 2015 on 31st March 2016 and the affidavit affirmed by the appellants in Appeal (L) No.662 of 2015 on 18th March 2016. The said prayer cannot be accepted to for more than one reason. Firstly, this submission is being made belatedly. Secondly, in the additional affidavit tendered today, there is no remorse shown by the appellants as regards the statements in the affidavits sought to be withdrawn. Thirdly, rejoinders were filed to both the affidavits way back in April 2016 which were served to the Advocates representing the appellants in April 2016. Even additional affidavits were filed by the applicants in April 2016. From April 2016, till today the appellants never made any attempt to withdraw their affidavits in reply. A faint attempt was made by the learned counsel for the appellants to shift the blame on the Advocate on record who was representing the appellants earlier. It is not the case that the declarant of both the affidavits filed in March 2016 are illiterate persons. On the contrary, they appear to be very seasoned litigants. At highest, an attempt to tender an apology for making such statements in the affidavits affirmed in March 2016 could have been understood. However, a request is made to grant permission to withdraw the said affidavits. Such conduct on the part of the

litigants cannot be tolerated at all.

22 Thus, we have no hesitation in holding that the appellants in both the appeals have committed a willful breach and disobedience of the solemn undertakings given to this Court which are recorded in the order dated 15th January 2016.

23 Now, the question is what action should be taken against the appellants. We have held that the appellants have committed willful and deliberate breach of their undertakings. We have also held that they have made an attempt to come out with a false and frivolous explanation. We have also held that the apology tendered by them is not bona fide. According to us this is a very fit case where the power under Sub-Rule 1 of 11 of Order XXXIX should be exercised. As the undertakings were given in the appeals, the same will have to be dismissed in exercise of power under Sub-Rule 1 of Rule 11 of Order XXXIX of the said Code.

24 Considering the most objectionable conduct of both the appellants and considering the fact that their conduct shows that they have no respect or regard for the process of law, we propose to direct both the appellants to pay costs quantified at Rs.1,00,000/- each. In view of the findings which we have recorded, even Sub-Rule 1 of Rule 2A of Order XXXIX of the said Code is attracted. However, as we propose to pass drastic order of dismissing the appeals preferred by the appellants, we deem it

proper not to take action against the appellants under Sub Rule 1 of Rule 2A of Order XXXIX of the said Code.

25 Accordingly, we dispose of the Notices of Motion (L)Nos. 666 of 2016 and 668 of 2016 by passing the following order:

(I) Appeal (L) No.662 of 2015 and Appeal (L) No.660 of 2015 are hereby dismissed in exercise of the power under Sub-Rule 1 of Rule 11 of Order XXXIX of the Code of Civil Procedure,1908;

(II) We direct the appellants in both the appeals to deposit in this Court costs of Rs.1,00,000/- (one lac only) each within a period of six weeks from today;

(III) If the amount of costs is deposited with this Court by the appellants is not withdrawn by the applicants in these Notices of Motion within six weeks from the date of deposit, the Registry shall transfer the said amount of costs to the Maharashtra Legal Services Authority by way of donation;

(IV) In view of dismissal of the appeals, all pending Notices of Motion do not survive and the same are disposed of. Any ad-interim or interim relief, if operative today, stands vacated;

(V) All parties to act upon an authenticated copy of this Judgment and order.

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)