IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORIDNARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 486 OF 2011

Motilal Oswal Securities Limited
a Company incorporated under the
Provision of Companies Act I of 1956
having its registered Office at 2nd floor,
Plam Spring Center Near Dmart
Shopping Centre Link Road, Malad (West)
Mumbai – 400 064. ... **Appellant**

V/s.

Mrs.Sujata Ramchandra Joshi,
Flat A-2, Kandhangouri Co-op. Hsg. Soc.
Kanchan Gally, Law College Road,
Pune – 411 004. ... **Respondent**

WITH
APPEAL NO. 491 OF 2011

Motilal Oswal Securities Limited
a Company incorporated under the
Provision of Companies Act I of 1956
having its registered Office at 2nd floor,
Plam Spring Center Near Dmart
Shopping Centre Link Road, Malad (West)
Mumbai – 400 064. ... **Appellant**

V/s.

Mr.Ramchandra Gurunath Joshi,
Flat A-2, Kandhangouri Co-op. Hsg. Soc.
Kanchan Gally, Law College Road,
Pune – 411 004. ... **Respondent**

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Mr.Rahul Karnik I/b. Juris Madrix, Advocate for the Appellant in both the Appeals.
Mr.Narayan Sahu with Chirag S. Dave I/b. Legasis Partners, Advocate for the Respondent in both the Appeals.

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CORAM : ANOOP V. MOHTA J.
A.M.BADAR J.

DATED :6th FEBRUARY 2017.

<u>ORAL JUDGMENT</u> : (PER ANOOP V. MOHTA J.)

1 Called out from the final hearing board.

2 Appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (For short, "the Arbitration Act") has been filed by the Appellant, as the learned Single Judge, after considering the material and reasoned order so passed by the learned Arbitral Tribunal of Bombay Stock Exchange (for short 'BSE Tribunal") has passed the order, which ultimately even maintained by the Appellate Arbitral Tribunal. The observations of the learned Judge have already been noted in order dated 30th January 2017, which are as follows :

> “1. Heard. Perused the record. Perusal of the award passed by the original arbitral tribunal as also the Appellate Arbitral tribunal show that entire case turns on appreciation of evidence on record. The findings that have been recorded by both the arbitral tribunals are essentially the findings of facts and therefore they cannot be interfered with in the limited jurisdiction of this Court under Section 34 of the Arbitration & Conciliation Act. Petition is rejected.”

Therefore, this appeal is preferred by the appellant.

3 After considering the reasons given by the Arbitral Tribunal as well as Appellate Arbitral Tribunal and the reasons given by the learned Single Judge and even otherwise, after going through the reasons and the submissions so made, we are also of the view that no case is made out to interfere in the order so passed by the learned Single Judge, as it seems to be proper, considering the scope of powers of appellate Court under the Arbitration Act

4 The submission that the National Stock Exchange (NSE) has passed the order in favour of the appellant as the respondent's claim was rejected. The same has attained finality as accepted by the Division Bench.

5 We have already noted that while passing the order/award by the BSE Tribunal, they have left the issue and related points of NSE, open and they proceeded to pass the order by appreciating the material placed on record relating to the BSE transactions only. Therefore, we see no reason to interfere with the order so passed even on this reason.

6 The statement is made by the learned counsel appearing for the parties that this order is sufficient to dispose of other appeal also, as Appeal No.486 of 2011 is filed by wife and Appeal No.491 of 2011 is filed by the husband. The reasons so given above in the matter is sufficient to dispose of all the appeals as the same are based on similar facts and the law. Therefore, by consent, by this common order, we are disposing of both the appeals.

7 The appeals are dismissed.

8 No costs.

(A.M.BADAR J.) **(ANOOP V. MOHTA J.)**