

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

WRIT PETITION NO.2946 OF 2016

M/s. Madhusudan Securities Limited	..Petitioner
Versus	
Bombay Stock Exchange Ltd. and another	..Respondents

Ms. Ankita Singhania a/w Mr. Siddhartha Shrivastava, Mr. Ankit R. Kothari, Ms. Krutika R. Cheulkar i/by D. H. Law Associates for the Petitioner.

**Mr. Sagar Divekar a/w Ms. Aparna Suresh for the Respondent No.1.
Ms. Anupama Hebbar i/by Keystone Partners for the Respondent No.2.**

**CORAM : R. M. SAVANT &
SMT. SADHANA S. JADHAV, JJ
DATE : 23rd JUNE, 2017**

PC.

1 The writ jurisdiction of this is invoked against the communication dated 10.11.2015 received by email of the said day from the Assistant Manager, Bombay Stock Exchange. The said communication is a response to the representation made by the Petitioner in respect of delisting of 61,42,847 of its shares allotted to the Respondent No.2 as part of a Business Transfer Agreement ("BTA" for short).

2 The Learned Counsel appearing for the Respondent raises a preliminary objection as regards the maintainability of the Petition on the ground that a remedy by way of Appeal is available under Section 23L of the Securities Contracts (Regulation) Act, 1956. A reading of the said

provision discloses that an Appeal is available against “any order or decision of the recognised Stock Exchange”. Though the Learned Counsel appearing on behalf of the Petitioner Ms. Ankita Singhania was at great pains to demonstrate to us that the impugned communication does not qualify under either of the two. We do not subscribe to the interpretation of Ms. Singhania.

3 The communication according to us falls within the ambit of the word “decision” as posited in the said provision. The Learned Counsel also sought to place reliance on the judgment of the Apex Court reported in (2009) 16 SCC 187 in the matter Mariamamma Roy Vs. Indian Bank and others, wherein the Apex Court held that the violation of the principles of natural justice would entitle a party to invoke the writ jurisdiction. The said judgment was in the context of the facts with which the Apex Court was concerned in the said case.

4 In our view, it is well settled that relegating a party to alternate remedy is a rule of prudence which has to be applied in the facts and circumstances of a given case. In the facts of the instant case, we do not deem it appropriate to exercise our extraordinary jurisdiction. By relegating the Petitioner to the remedy by way of an Appeal under Section 23L, we dispose of the above Petition.

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5 Needless to state that the remedy if availed of would be decided on its own merits and in accordance with law. If the issue of limitation arises, the fact that the Petitioner was prosecuting the above Petition in this Court can be urged by the Petitioner.

[SMT. SADHANA S. JADHAV, J]

[R.M.SAVANT, J]