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

NOTICE OF MOTION NO.2775 OF 2016
IN
APPEAL NO.760 OF 2011
IN
ARBITRATION PETITION NO.194 OF 2007

Motilal Oswal Securities Ltd. .... Applicant
In the matter between
Motilal Oswal Securities Ltd. .... Appellant
Vs.
Anil Agarwal .... Respondent

AND

NOTICE OF MOTION NO.2776 OF 2016
IN
APPEAL NO.640 OF 2011
IN
ARBITRATION PETITION NO.406 OF 2007

Motilal Oswal Securities Ltd. .... Applicants
In the matter between
Motilal Oswal Securities Ltd. .... Appellants
Vs.
Idea International Pvt. Ltd. & Ors. .... Respondents

Mr. Rahul Karnik for the Applicants.
Mr. P.N. Mody, Senior Counsel with Ms Kalpana & Mr. Sairam Subramanian i/by Khaitan & Co. for the Respondents.

CORAM: S.C. DHARMADHIKARI &
SMT. VIBHA KANKANWADI, JJ.

**DATE : ** AUGUST 07, 2017

P.C:

1. We have heard both sides on these notices of motion for stay.

2. Both sides concede that the appeals are admitted.

3. Since the appeals are directed against a common order passed by a learned single Judge on a group of three petitions under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, "the Act") and the learned single Judge having refused to set aside the Award made in favour of the respondents, it has become operative and enforceable.

4. The only contention raised on behalf of the appellants is that, ordinarily on admission of such appeals there is an automatic stay. Now the Act having been amended, the appellants are mandated to seek a stay. That is why the

circumstances have changed and in the event the Bombay Stock Exchange releases the Award amounts, which are lying invested, the appeals of the appellants would become infructuous.

5. On the other hand, it is urged that the learned single Judge while dismissing one of the petitions had categorically observed that the Award made by the Arbitral Tribunal of the National Stock Exchange is set aside. Thereafter, the Arbitration Department of the National Stock Exchange shall appoint an Arbitral Tribunal to make a fresh Award taking into consideration the Award made by the Bombay Stock Exchange. On such a direction, the appeals were filed and they are now admitted. In the operative part, in para 16, the learned single Judge directed that the broker has deposited the money with the Bombay Stock Exchange. This is to satisfy the amounts which are awarded by the Bombay Stock Exchange Appellate Tribunal. It was open to the broker to avail of such remedies as are permissible in law, but only for a period of four months that the respondents before us were restrained from withdrawing the sum. This order of the learned single Judge, dated 29-7-2011,

has not been stayed till date.

6. Once it is stated that for all these years there was no restraint from the Appellate Court, but on the understanding of the appellants that these appeals being a continuation of the original proceedings, the stay continues till the disposal of the appeals, that this amount was merely lying invested. We are of the opinion that once this Court is not in a position to immediately dispose of the appeals, a workable arrangement can be made.

7. Hence, we direct as under:-

(i) On the respondents furnishing an undertaking to this Court that in the event the appeals succeed, the sums awarded would be brought back with such rate of interest as stipulated in the statute or otherwise by this Court, the Bombay Stock Exchange shall release the amounts with accrued interest. Such an undertaking shall remain in force till the disposal of the appeals.

9. The notices of motion are, therefore, disposed of with these directions, but without any order as to costs.

(SMT. VIBHA KANKANWADI, J.) (S.C. DHARMADHIKARI, J.)