

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

INTERIM APPLICATION NO. 1 OF 2019
IN
WRIT PETITION NO. 1181 OF 2018

N. K. Proteins Ltd. ..Applicant.

In the matter of
63 Moons Technologies Limited. ..Petitioner.

Versus
State of Maharashtra & Others. ..Respondents.

Mr. Pradeep Sancheti, Senior Advocate with Vishal Maheshwari,
Rahil Patel, Kamini Pansare i/b V. M. Legal for the Applicant.

Mr. Sujay Kantawala, Manek Joshi i/b Crawford Bayley for the
Petitioner.

Ms. Geeta Shastri, AGP for the Respondent-State.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.
Date : **November 29, 2019.**

P. C. :

1. The interim application is taken out by M/s. N. K. Proteins Ltd. The reason for which the application is filed, as can be apparently seen from the application, is that there are certain observations made by this Court in its judgment dated 22nd August 2019, which according to the Applicant are factually incorrect and are causing grave prejudice to them.

2. In the application, reference is made to certain

paragraphs of the judgment which have been picked up randomly and it is allegedly that the observations of this Court in the aforesaid paragraphs are likely to be construed by the concerned officials in a manner determinantal to the interest of the Applicant.

3. Mr. Sancheti, learned senior counsel appearing on behalf of the Applicant has placed reliance on the authoritative pronouncements of the Apex Court to support his submission that the observations in the form of any report or judgment of the Court, if prejudicially affect the party, in the absence of observance of principles of natural justice, the said observations cannot be given effect to.

4. We have no quarrel about the legal proposition on which Mr. Sancheti has placed reliance. Perusal of the judgment in its entirety and not in the manner which is sought to be read by the learned senior counsel appearing on behalf of the Applicant, would reveal that we were dealing with the issue as to whether the National Spot Exchange Limited [*for short "NSEL"*] is a "financial establishment" within the purview

of Maharashtra Protection of Interests of Depositors in Financial Establishments Act, 1999. After dealing with the transactions which took place on the platform of NSEL which was electronic platform on which commodities were traded, we conclusively held that NSEL does not come within the purview and scope of the MPID Act. We observed so, on the basis of bye-laws of NSEL as well as the transactions effected on its platform to which we had adverted to in great detail. We have also made a reference to the forensic audit report dealing with the 17 defaulters and extensively relied on the findings of the said report in paragraph 34 of the judgment. We also made reference to the affidavit filed by the Deputy Secretary, Home Department, Government of Maharashtra in the High Court of Gujarat at Ahmedabad in Special Civil Application No. 18637 of 2015, where reference was made to one of the defaulter-N. K. Proteins Limited, who is the Applicant before us. Extensively we have quoted the paragraphs from the said affidavit and our observations in the judgment are only limited to the said affidavit and the forensic audit report which named the Applicant as one of the defaulter. We have not commented upon the role of the Applicant any more than that.

5. The prayer today in this review petition is to clarify our judgment *qua* the observations against the present Applicant, which we straightway decline, for the reason that we have not commented upon the Applicant as a particular defaulter but we had merely referred to the forensic audit report in respect of the defaulters and this report was relied by the EoW and used against NSEL. The observations made by us are limited to the findings in the said report and the affidavit of the State Government and nothing more than that. No case is, therefore, made out for review, and, the application is rejected.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]