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

WRIT PETITION [L] NO.5513 OF 2020
a/w
INTERIM APPLICATION [L] NO.6123 OF 2020
a/w
INTERIM APPLICATION [L] NO.6126 OF 2020
a/w
INTERIM APPLICATION [L] NO.15327 OF 2021
IN
WRIT PETITION [L] NO.5513 OF 2020

Brijeshkumar Jagdishkumar Mittal and	]	
4 others.	]	Petitioners
Vs.		
National Stock Exchange of India	]	
Ltd and another.	]	Respondents

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Ms. Rinku Valanju, Pratham Masurekar I/b. R. V. Legal for the Petitioners
Ms. Sanaya Dadachanji I/b. Manilal Kher Ambalal & Co. for Respondent No.1.

CORAM: K.K.TATED &
PRITHVIRAJ K. CHAVAN, JJ.

DATED : AUGUST 31, 2021

P.C.

1 Heard. Today, the matters are shown on board pursuant to the praecipe dated 24.08.2021 filed by the Advocate for Petitioners for speaking to the minutes of order dated 27.07.2021.

2 The learned counsel for the Petitioners submits that by order dated 27.07.2021, this court had permitted the Petitioners to withdraw sum of Rs.91,84,017/- with accrued interest without furnishing security. The learned counsel for the Petitioners submits that in para No.4, they have specifically averred that the said amount belongs to Petitioner NO.4 towards the sale of 47,000 shares and 10,000 shares on 22.06.2020 and 24.06.2020, respectively in script of MLSL. She relies on para 4 of the Writ Petition which reads thus:

> *"4. The present petition is being filed by the Petitioners, being aggrieved by the Circulars dated 15 May 2018 and 10 July 2018 ("Impugned Circulars") and Impugned Communications dated 25 / 26 June 2020 issued by Respondent No.1 to Respondent No. 2. By the said communications, Respondent No. 1 has relied upon completely vague and illegal Impugned Circulars and has directed Respondent No. 2 10 withhold an amount of Rs. 89,42,516/- (w.r.t. Petitioner No. 4's sale of 47,000 shares and 10,000 shares on 22 June 2020 and 24 June 2020, respectively in the scrip of MLSL) illegally and without any basis whatsoever. Further, the Respondent No. 1 has directed Respondent No. 2 to recover from the Petitioners the pay outs already done and hold the said amount of Rs. 10,90,68,421.00 in a separate escrow account. It is the submission of the Petitioners that the Impugned Circulars and the Impugned Orders are wholly illegal, excessive, perverse and ultra vires the provisions of the Securities Contract (Regulation) Act, 1956, Securities and Exchange Board of India Act, 1992 and the circulars issued by the Securities and Exchange Board of India. The Impugned Circulars have been issued without any authority in law and intend to create an unfair system whereby Respondent No. 1 seeks to direct its trading members to prejudicially affect the rights of investors and do so in an indirect fashion*

without having to deal with any investors. It is an undisputed position of fact and law that Respondent No. 1 exercises no regulatory jurisdiction over investors in the securities market."

3 The learned counsel for the Petitioners submits that even in paragraph 44(1), they specifically prayed to return the said amount to Petitioner No.4. In view of these facts, the learned counsel for the Petitioners submits that this Hon'ble Court be pleased to modify the order dated 27.07.2021 and permit Petitioner No.4 to withdraw the said amount.

4 The learned counsel for Respondent No.1 submits that they do not have any objection for the said modification.

5 Considering the submissions made by the learned counsel for the Petitioners and the averments made in para 4 as well as the prayers of the Writ Petition and as the advocate for Respondent No.4 has no objection, we allow the praecipe in the following terms:

a. In order dated 27.07.2021, on page No.3, paragraph 7(a) be replaced with the following paragraph:

"Petitioner No.4 – Mittal Brijeshkumar Jagdishkumar (HUF) is permitted to withdraw the sum of Rs,91,84,017/- (Rs. Ninety One Lakh Eighty Four Thousand Seventeen only) with accrued interest, if any, without furnishing any security subject to any order passed by the Apex Court in Appeal filed by Respondent No.1 after four weeks from today;"

6 The order dated 27.07.2021 stands corrected accordingly, which reads thus:

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IN

WRIT PETITION [L] NO.5513 OF 2020

Brijeshkumar Jagdishkumar Mittal and	**]**	
4 others.	**]**	**Petitioners**
Vs.		
National Stock Exchange of India	**]**	
Ltd and another.	**]**	**Respondents**

.....

Mr. Prakash Shah a/w Mr. Kunal Kataria, Rinku Valanju, Mr. Pratham Masurekar i/b R.V. Legal, for Petitioners/Applicants.

Mr. V.R. Dhond, Senior Advocate a/w Mr. Sanaya Dadachanji a/w Mr. Shaunak Vadhirkar i/b Manilal Kher Ambalal and Co.,for Respondent No.1.

Mr. Pulkit Sharma a/w Mr. Aditya Bhansali, Mr. Suyash Bhandari i/b Sukrut Mhatre, for Respondent No.2.

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CORAM : K.K. TATED &
PRITHVIRAJ K. CHAVAN, JJ.

DATE : 27th JULY, 2021.
[Through Video Conferencing]

P.C.

1. Heard learned Counsel for the parties.

2. Both the learned Counsel submits that as per earlier order dated 17th July, 2021 passed by this Court, respondent No.2 – Choice Equity Broking Private Limited deposited a sum of Rs.91,84,017/- in the Office of Prothonotary and Senior Master, High Court (Original Side), Mumbai. Statement is accepted.

3. Mr. Shah, learned Counsel appearing on behalf of the petitioner submits that the petitioner may be permitted to withdraw the said amount without furnishing any security as respondent No.1-National Stock Exchange of India Limited has not challenged the order dated 9th July, 2021 passed by the Security Appellate Tribunal, Mumbai in Appeal No.230 of 2020.

4. At this stage, Mr. Dhond, learned Senior Counsel appearing on behalf of respondent No.1 submits that he received instructions to make a statement before this Court that respondent No.1 has decided to challenge the order

dated 9th July, 2021 before the Apex Court. He submits that in view of this fact, instead of permitting the petitioner to withdraw the said amount, matter be adjourned for four weeks.

5. At this stage, Mr. Shah, learned Counsel appearing on behalf of the petitioners submits that if this Court is adjourning the matter for four weeks at the request of learned Counsel appearing on behalf of respondent No.1, they may be permitted to withdraw the said amount if respondent No.1 fails to obtain the order from the Apex Court.

6. Mr. Dhond, learned Senior Counsel appearing on behalf of respondent No.1 submits that if respondent No.1 prefers an appeal before the Apex Court, they will inform the petitioners in writing in advance, at least 72 hours before moving the Apex Court. Statement is accepted.

7. In view of this fact, following order is passed;

: **O R D E R** :

(a) ***Petitioner No.4 – Mittal Brijeshkumar Jagdishkumar (HUF)*** is permitted to withdraw the amount of Rs.91,84,017/- (Rs. Ninety One Lakh, Eighty Four Thousand, Seventeen only) with accrued interest, if any, without furnishing any security subject to any order passed by the Apex Court in Appeal filed by Respondent No.1 after four weeks from today;

(b) Writ petition stands disposed of;

(c) No order as to costs;

(d) In view of the order passed in the writ petition, interim applications, if any, stand disposed of.

(PRITHVIRAJ K. CHAVAN, J.) **(K.K.TATED, J.)**