

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL APPEAL (L) NO. 27370 OF 2021
IN
INTERIM APPLICATION (L) NO. 14224 OF 2021
IN
COMMERCIAL SUIT (L) NO. 14223 OF 2021**

Rajkumar Nagpal & Ors

...Plaintiffs

Versus

Reliance Commercial Finance Ltd & Ors

...Defendants

Mr Arvind Datar, Senior Advocate, with Mr Mustafa Doctor, Senior Advocate, Suraj Choudhary, Mihir Mody, Dhaval Patil & Arnab Mishra, i/b K Ashar & Co, for the Appellant in Commercial Appeal (L) No. 27370 of 2021.

Mr Mayur Khandeparkar, with Rohan Mathur, i/b Anoma Law Grp LLP, for Respondents Nos. 1 to 10.

Mr Prateek Seksaria, with Karan Rukhana, Subir Kumar & Disha Shah, i/b SDS Advocates, for Respondent No. 11.

Mr Ravi Kadam, Senior Advocate, with Yohaann Limathwalla, i/b J Sagar Associates, for Respondent No. 12.

Dr Birendra Saraf, Senior Advocate, with Siddharth Ranade & Samrudhi Chothani, i/b Trilegal, for Respondent No. 13 (Vistra ITCL (India) Ltd).

Mr Venkatesh Dhond, Senior Advocate, with Mr Prasad Shenoy, Aditi Phatak, & Kirti Ojha, i/b Udwadia & Co., for Respondent No. 14-RBI.

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Date: 2021.12.03
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CORAM: G.S. PATEL, J
DATED: 3rd December 2021

PC:-

1. The matter is placed before me. By an order passed today by the Division Bench for an urgent clarification of my order of 28th October 2021, and which is challenged in Appeal. I have already once clarified that order at the instance of some of the parties on 15th November 2021.

2. The present clarification is sought at the instance of SEBI. The Appeal Court specifically asks for a clarification as to whether the compromise recorded in that order of 28th October 2021 was by consent even of SEBI. Paragraph 17 of 28th October 2021 order says that the order has the consent of all parties. Hence the request for clarification.

3. SEBI was not, as I recollect, a party to the Suit but was a Respondent to the IA. I had directed notice to SEBI and called for an Affidavit. Mr Dada learned Senior Advocate argued extensively on that Affidavit. After judgment was reserved, I asked the principal contesting parties (other than SEBI) to consider a settlement, which they ultimately did. SEBI obviously could not be a party to any such compromise. Paragraph 12 of my order therefore dealt, though briefly, with the contentions of the SEBI. That paragraph of the order is not by consent, but is an order in *invitum*. Paragraph 18 of the order is specifically for SEBI's protection and is also not by consent.

4. Consequently, the last line of paragraph 17 which says that the order is by consent of all parties is necessarily subject to this one exception as regards the contentions of SEBI and which I have dealt with in paragraphs 12 and 18.

5. I do not believe any further clarification is required. Mr Seksaria, Mr Khandeparkar and Mr Kadam all urge me to note that the SEBI did not protest or object when this order was being passed in open Court. I do not think I can make any such observation at all. SEBI had placed its submissions on Affidavit and through Counsel and which I dealt with in paragraphs 12 and 18 of my 28th October 2021 order.

6. There is nothing further that needs to be added.

7. All concerned will act on production of a digitally signed copy of this order.

(G. S. PATEL, J)