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

INTERIM APPLICATION NO.3928 OF 2022
IN
INTERIM APPLICATION (L) NO.13162 OF 2022
IN
INTERIM APPLICATION (L) NO.27571 OF 2021
IN
COM SUIT NO.162 OF 2022

Reliance Home Finance Ltd.	**...Applicant/ Defendant No.1 (Ori. Respondent)**
Versus	
R.K. Mohatta Family Trust	**...Plaintiff**
Versus	
Reliance Home Finance Ltd. and Ors.	**...Defendants**

Parth Shah with Saniya Patki i/b. Sujit Lahoti & Associates for the Plaintiffs.

Mustafa Doctor, Senior Advocate, Suraj Choudhary, Mihir Mody, Dhaval Patil and Arnav Misra i/b. K.Ashar and Co. for the Applicant / SEBI.

Mr. Navroz Seervai, Senior Counsel, Mr. Shadab Jan with Mr. Mufaddal Paperwala i/b. M/s. Crawford Bayley and Co. for the Applicant.

Mr. Vaibhav Singh and Mr. Bryan Pillai i/b. Shardul Amarchand Mangaldas & Co. for Defendant No.2.

Mr. Ravi Kadam, Senior Advocate with Mr. Yohaann Limathwalla and Mr. Virgil Braganza i/b. J. Sagar Associates for Defendant No.3.

Sharan Jagtiani, Senior Counsel, Subir Kumar, Disha Shah and Mutahar Khan i/b. SDS Advoactes for Reliance Home Finance Ltd.

CORAM : R.I. CHAGLA J.
DATE : 28TH SEPTEMBER, 2022.

ORDER :

1. Heard learned Counsel for parties.

2. By the present Interim Application, the Applicant / Defendant No.1 is seeking orders to open the sealed envelope and disclose the voting results of the meeting of the Debenture Holders convened by the Respondent No.2 on 13th May, 2022. The holding of the meeting was pursuant to the orders of this Court dated 31st March, 2022 and 6th April, 2022 in Interim Application No.27571 of 2021. The results of the meeting were directed to be kept in sealed envelope pursuant to order dated 10th May, 2022 read with order dated 12th May, 2022 passed by this Court in Interim Application (L) No.13162 of 2022 (SEBI's intervention Application).

3. The Applicant has stated in the Interim Application that the Application is filed without prejudice to the rights of the Applicant to contend the non-applicability of the circular dated 13th October, 2020 issued by the Security and Exchange Board of India ("SEBI"). This statement of the Applicant can no longer be accepted

in view of the order passed by the Supreme Court dated 30th August, 2022 upholding the validity of the SEBI Circular dated 13th October, 2020. It is noted that the present Interim Application had been filed on 18th August, 2022 i.e. prior to the order passed by the Supreme Court.

4. Mr. Mustafa Doctor, learned Senior Counsel appearing for SEBI has vehemently opposed the relief sought for in the Interim Application on the ground that the Interim Application had been filed prior in point of time to the said order dated 30th August, 2022 of the Supreme Court which held that the SEBI's circular operates retroactively and contemplates a situation where ISIN wise voting is mandatory. The Supreme Court has further held that the SEBI's circular though applies retroactively, it does not contemplate a scenario where the debenture holders could give ex post facto consent to ICAs agreed prior to the commencement of the SEBI Circular, that is 13th October, 2020. He has submitted that the order dated 30th August, 2022 necessarily would have to be considered by this Court, prior to ordering the opening of the sealed envelopes containing the voting results.

5. Mr. Sharan Jagtiani, learned Senior Counsel for the Applicant has relied on the order of the Supreme Court dated 10th August, 2022 by which the Supreme Court had considered that where the voting results of a meeting held on 8th December, 2021 placed in sealed cover is opened, the copies of the contents required to be made available to the concerned counsel appearing for the parties so that the counsel can assist the Court on whether the requisite majority as required by the circular of SEBI dated 13th October, 2020 has been achieved during the course of the meeting. This order was made without prejudice to the rights and contentions of the parties in the present proceedings. He has submitted that a similar order may be passed in the present Interim Application.

6. Having considered the submissions, in my view there is merit in the submission of the Mr. Sharan Jagtiani, particularly considering the order dated 10th August, 2022 of the Supreme Court. The meeting of the debenture holders was convened by Respondent No.2 on 13th May, 2022. Pursuant to orders of this Court dated 31st March, 2022 and 6th April, 2022 in Interim Application (L) No.25571 of 2021 filed by the Plaintiff. The voting results of the said meeting had been placed in the sealed envelope pursuant to order

dated 10th May, 2022. The contention of the Mr. Mustafa Doctor that the voting has not taken placed in accordance with said SEBI's circular can be considered on the opening of the sealed envelope containing the voting results. The order of the Supreme Court dated 30th August, 2022 holds that the SEBI's circular has retroactive application and voting would have to be as per the ISIN wise voting.

7. In that view of the matter, a similar order is passed as had been passed by the Supreme Court dated 10th August, 2022. The sealed envelope containing the voting results of the meeting held on 13th May, 2022 shall be opened and made available to the Advocates for the parties in order to assist the Court as to whether the requisite majority as required in accordance with the circular of SEBI dated 13th October, 2020 has been achieved during the course of the meeting. The voting results shall not be publicized prior to such determination. This shall be without prejudice to the rights and contentions of the parties in the present proceedings.

8. The Interim Application is disposed of in the above terms.

[R.I. CHAGLA J.]