Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 2113 OF 2021
IN
WRIT PETITION NO. 2892 OF 2021

HDFC Bank Ltd ...Applicant
In the matter between
Karvy Stock Broking Ltd …Petitioner
Versus
National Securities Depository Ltd & Ors …Respondents

None *for the Petitioner.*
Mr Somasekhar Sundaresan, *i/b Kinjal Shah & Etika Srivastava, i/b Rashmikant & Partners, for Respondent No. 1.*
Mr Kunal Dwarkadas, *with Silpa Nair, Rahil Shah i/b Veritas Legal, for Respondent No. 2-Central Depository Services Ltd.*
Mr Ranjeev Carvalho, *with Sachin Chandarawa, Akshay Dhayalkar & Aagam Mehta, i/b Manilal Kher Ambalal & Co, for Respondent No. 3.*
Mr Sagar Divekar, *with Abhimanyu Mhapankar, for Respondent No. 4.*
Mr Amit Kumar, *with Aditya Shah i/b RV Legal, for Respondent No. 5- Metropolitan Stock Exchange of India Ltd.*
Ms Aparna Wagle, *Siddhi Somani, i/b Alliance Law, for Respondent No. 6-IIFL*
Mr Vaibhav Charalwar, *i/b Sandeep Maurya, for the Respondent No. 7.*
Mr Ashish Kamat, *Sameer Pandit, Sarrah Khambati & Anuj Jain i/b Wadia Ghandy & Co., for the Intervenor.*
Mr Abhiraj Arora, *i/b Economic Laws Practice for E & Y (Valuer).*

CORAM G.S. Patel &
Neela Gokhale, JJ.
DATED: 14th February 2023

PC:-

1. The Petitioners are absent yet again. This was noted on 8th September 2022, when there were certain other directions and notice was ordered to be issued. On 11th October 2022, once again the Petitioners were absent and this time the Division Bench noted that if none appeared on the next date, the Court would be constrained to dismiss the matter. We see no reason to depart from the observations of the previous Bench made in the 11th October 2022 order.

2. The Writ Petition is dismissed. We make it clear that the Writ Petition will not be restored without a formal Interim Application for restoration with notice to all appearing Respondent's Advocates.

3. Mr Kamat appears for HDFC Bank Ltd which has filed Interim Application No. 2113 of 2021. HDFC Bank Ltd says that it has a charge on the realisations of some properties that were assets of the Petitioner, Karvy Stock Broking Ltd. Those proceeds are present with the National Securities Depository Limited or NSDL and the Central Depository Services Limited or CDSL. There is an order of 18th March 2021 (AA Sayed J (as he then was) and Madhav J Jamdar J) which *inter alia* restrains the appropriation of those amounts. These amounts were to be held by NSDL, CDSL, NSE, BSE and Metropolitan Stock Exchange of India Limited or MSEIL as deposits and were not to be dealt with until the next date. There were other directions in that order, in particular, requiring Respondents Nos. 6 and 7 to keep and maintain accounts of investors/beneficial owners.

4. For the present, we do not disturb either of these two orders. It is open to NSDL, CDSL, NSE, BSE, MSEIL or HDFC Bank Ltd, as the case may be, to make an appropriate application or to adopt suitable proceedings in regard to their respective claims for the amounts covered by direction (iv) of the 18th March 2021 order. All contentions in those proceedings are evidently at large and are unaffected by this order of disposal which is only non-appearance of the Petitioner and is not a disposal on merits of the matter.

5. The operative portion of the order of 18th March 2021 set in motion a defined process and while doing so, granted some relief and specifically rejected other reliefs. In particular, Clause (ii) at internal page 31 of that order made an appointment of valuers with directions to submit valuation reports. Parties were directed to cooperate with the valuers. Applications for stay and injunction were rejected. There were directions to NSDL, CDSL, NSE, BSE and MSEIL to monitor the accounts transferred to Respondents Nos. 6 and 7 to ensure the protection of the interest of the account holders. The processes that have been initiated by or under that order must therefore continue if not completed and the order must remain in operation until further orders of the Court brought by a party entitled to relief in an appropriate proceeding. At least one valuer is present to say that the valuation has not been done. That is not a reason to upset the previous order. We say this because to vacate that order in its entirety would probably result in significant further complications and prejudice to the various parties who have appeared before us regularly including various stock exchanges, depositories and financial institutions. If the valuation process has not yet begun, we make it clear that we are making no orders to either recall the order calling for the valuation nor making any further directions in that behalf. The appointed valuers may place their case and the relevant records before an appropriate Court when necessary.

6. The Petition stands disposed of in these terms.

(Neela Gokhale, J) **(G. S. Patel, J)**