

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION (LODGING) NO. 7105 OF 2023**

National Stock Exchange of India Limited ... Applicant/Plaintiff

vs.

Guiness Securities Limited and others ... Respondents/Defendants

**WITH
INTERIM APPLICATION (LODGING) NO. 11411 OF 2023
WITH
INTERIM APPLICATION (LODGING) NO. 11538 OF 2023
WITH
INTERIM APPLICATION (LODGING) NO. 11747 OF 2023
IN
COMMERCIAL SUIT (LODGING) NO. 6957 OF 2023**

Dr. Birendra Saraf, Senior Advocate, a/w. Mr. Ranjeev Carvalho, Mr. Sachin Chandarana, Mr. Manan Bindora and Mr. Aagam Mehta, i/b. Manilal Kher Ambalal & Co. for applicant/plaintiff.

Mr. Kunal Vaishnav a/w. Ms. Surbhi Soni, i/b. MG & Associates for respondent/defendant Nos.1 to 3.

**CORAM : MANISH PITALE, J.
DATE : 08th FEBRUARY, 2024**

P.C. :

. Heard learned senior counsel appearing for the applicant/plaintiff. The present suit has been initiated by the plaintiff for recovery of amount to the tune of Rs.339 crores from the defendants.

2. The learned senior counsel for the applicant/plaintiff, made an effort to point out that a strong *prima facie* case is made out against the

defendants and for the present, the plaintiff is seeking disclosures and for appropriate injunction against the defendants from dealing with their assets.

3. At this stage, the learned counsel for defendant Nos.1 to 3 submits that the Securities and Exchange Board of India (SEBI), on 30.06.2022, has already passed an order injuncting defendant Nos.1 to 3 from disposing of or dealing with their movable and immovable properties and further that a direction has been given to the defendants to give their disclosures. It is brought to the notice of this Court that although the said order has been challenged, there is no stay operating in respect of the said order.

4. This Court is of the opinion that while an opportunity can be granted to the defendants to file reply affidavit in the present application, in the light of the order dated 30.06.2022 passed by SEBI and the material brought to the notice of this Court in the present proceeding, ad-interim order can be granted in favour of the plaintiff.

5. It is to be noted that defendant Nos.4 and 5 are also the directors of defendant No.1-Company and therefore, ad-interim reliefs ought to operate against them also.

6. In view of the above, there shall be ad-interim reliefs in terms of prayer clauses (a), (b) and (f), which read as follows:

“(a) this Hon’ble Court may be pleased to direct the Defendant No.1 to disclose on oath by filing an Affidavit (A) its financial returns for the last three years; (B) certified statements of bank accounts for the last one year; (C) a list of all gross block fixed assets with complete particulars of location, area, details of encumbrances, name of secured

lenders, date of security, amount due and the status; (D) a list of all other movable assets i.e., including all investments whether in public or private companies, debt, equity and every other portfolio; (E) all other movable items including automobiles, computers, servers, equipment and other assets of the acquisition or replacement value of more than Rs. 1 Lakh; (F) details of all the receivables from its clients/debtors, together with details of all encumbrances and valuation in respect thereof; (G) details of the shares, securities, funds, and investments which have been diverted / transferred by Defendant No. 1 and valuation with all supporting information / documents including the funds transferred to the related entities; (F) details of the used/utilization/application of the funds and securities diverted/transferred by Defendant No. 1 including the funds transferred to the related entities;

- (b) this Hon'ble Court may be pleased to direct the Defendant Nos. 2 to 5 to disclose on oath by filing an Affidavit (A) their financial returns for the last three years; (B) certified statements of bank accounts for the last one year; (C) a list of all gross block fixed assets with complete particulars of location, area, details of encumbrances, name of secured lenders, date of security, amount due and the status; (D) a list of all other movable assets i.e., including all investments whether in public or private companies, debt, equity and every other portfolio; (E) all other movable items including automobiles, computers, servers, equipment and other assets of the acquisition or replacement value of more than Rs. 1 Lakh. (F) details of all the receivables from its clients / debtors, together with details of all encumbrances and valuation in respect thereof; (G) details of the shares, securities, funds, and investments which have been diverted / transferred by Defendant Nos.2, 3 & 4 and valuation with all supporting information/documents including the funds transferred to the related entities; (F) details of the used/utilization/application of the funds and securities diverted/transferred by Defendant Nos. 2, 3 & 4 including the funds transferred to the related entities;

- f) this Hon'ble Court may be pleased to restrain the Defendants, their servants, agents, assigns, directors, officials or any person/s acting or claiming through or under it, by a temporary order and injunction of this Hon'ble Court, from in any manner transferring, alienating, selling, disposing of and/or dealing with and/or parting with possession and/or encumbering or creating any third party, right, title and interest in all assets, movable and immovable, tangible and intangible, securities, shares, debentures, investments owned by the Defendants and/or kept or diverted to any other connected entity, including the assets disclosed on oath by the Defendants;"
7. Reply affidavit on behalf of the defendants be filed within three weeks from today. The defendants shall give necessary disclosures, as per prayer clauses (a) and (b), in the reply affidavit itself.
8. Rejoinder affidavit, if any, be filed within two weeks thereafter.
9. List the application for further consideration on 18.03.2024.
10. The other pending applications shall also be taken up for consideration on the next date of listing.
11. The defendants are permitted to file their rejoinder affidavits in the applications filed on their behalf i.e. Interim Application (Lodging) No.11747 of 2023 and Interim Application (Lodging) No.11411 of 2023, within a period of three weeks from today.

(MANISH PITALE, J.)