

ITEM NO.102(PH)

Court No.7

SECTION IX

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 9238 OF 2003

P.R. SHAH SHARES & STOCK BROKERS (P)LTD.

Appellant (s)

VERSUS

M/S. B.H.H. SECURITIES (P) LTD. & ORS.

Respondent(s)

(With appln(s) for orders/directions and with office report)

Date: 23/04/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

For Appellant(s) Ms. Indu Malhotra, Sr.Adv.

Ms. Sunitha Ojha, Adv.

Mr. Abhinav Agnihotri, Adv.

Mrs. Nisha Bagchi, Adv.

Ms. Vrushali K., Adv.

Mr. Vikas Mehta, Adv.

For Respondent(s)

Mr. Santosh Paul, Adv.

for R.1

Mr. Arvind Gupta, Adv.

Mr. K.K. Bhat, Adv.

Mr. M.J. Paul, Adv.

for R.3

Mr. Pratap Venugopal, Adv.

Ms. Surekha Raman, Adv.

Mr. Dileep Poolakkot, Adv.

Ms. Deepti, Adv.

for M/S. K.J. John & Co. ,Adv

UPON hearing counsel the Court made the following

ORDER

Learned counsel for the appellant stated that as on date no amount is due to the Bombay Stock Exchange ('BSE' for short) by the appellant (except some small amount by way of Exchange clearing house

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dues) and the amount realised by sale of the membership, kept in fixed deposit along with interest may be released to the appellant after adjusting the Exchange clearing house dues.

The first respondent stated that it has paid Rs.52,91,740/- to the BSE which included Rs.17,85,000/- as margin money in regard to the disputed transactions during the weekly settlements in the first, second and third week of June, 1998. He submits that as the appellant is disowning the sale transaction and the second respondent is disowning the

purchase transaction, there is no need for the BSE to hold on to the said sum of Rs.52,91,740/- and the same may be returned to it (first respondent).

The learned counsel for the BSE stated that subject to further verification, the BSE has received only the margin money of Rs.17,85,000/- and not any other amount from the respondent and that any amount received by way of margin will be dealt with in accordance with the bye-laws. He further submitted that if any amount in excess of Rs.17,85,000/- has been received from the first respondent in regard to the disputed transactions, the BSE would not have retained it, but utilised it for squaring the transactions relating to 15,000 shares of BPL and 15,000 shares of Sterlite. He also submitted that if a week's time is granted, BSE will file an affidavit showing how much has received from respondent No.1 and how much has been used for settlement and in what manner.

If there was no transaction between appellant and the first respondent, and if there was no transaction between second and first
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respondent, and if there was no consequential squaring by way of settlement the entire dispute would get sorted out automatically as there would be no need for any award and there will be no need for BSE to retain the amount paid by the first respondent. BSE may therefore disclose in addition to the said particulars, as to who put up the said shares for sale. The matter is adjourned to 6.5.2009 to enable the BSE to state the correct position in regard to the shares and the amounts paid.

(Pawan Kumar)
Court Master
(copy of the order to be handed over DASTI)

(M.S. Negi)
Court Master