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ITEM NO.3  
PART-HEARD

COURT NO.9

SECTION XVI

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).29599/2009  
(From the judgment and order dated 01/09/2009 in WP No.7729/2009  
of The HIGH COURT OF CALCUTTA)

KOTAK MAHINDRA BANK LTD. Petitioner(s)

VERSUS

HINDUSTAN NATIONAL GLASS & IND.LTD.& ORS Respondent(s)

HINDUSTAN NATIONAL GLASS & IND.LTD.& ORS Respondent(s)  
(With application for intervention, prayer for interim relief  
and office report)

WITH

SLP(C) NO. 27730 of 2011  
[EMCURE PHARMACEUTICALS LTD. & ANR. V. ICICI BANK LIMITED & ORS.]  
(With prayer for interim relief and office report)

SLP(C) NO. 28477 of 2011  
[FINOLEX INDUSTRIES LD. & ANR. V. R.B.I. & ORS.]  
(With application for permission to place additional documents on record,  
directions, permission to file additional documents, seeking permission to  
place on record additional events/documents, prayer for interim relief and  
office report)

Date: 05/09/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. PATNAIK  
HON'BLE MR. JUSTICE SWATANTER KUMAR

For Petitioner(s) Mr. C.A. Sundaram, Sr. Adv.  
in SLP 29599 Mr. Dhavan Jumani, Adv.  
Mr. Krishnan Dev, Adv.  
Mr. Yogesh, Adv.  
Mr. Senthil Jagadeesan, Adv.

In SLP 27730 Mr. Soli J. Sorabjee, Sr. Adv.  
Mr. Chander Uday Singh, Sr. Adv.  
Mr. Shyel Trehan, Adv.  
Mr. Hitesh Jain, Adv.  
Ms. Diya Kapur, Adv.  
Ms. Pooja Tidka, Adv.  
Mr. Nikhil Pillai, Adv.  
Mr. Arjun Puri, Adv.  
Mr. Vikas Mehta, Adv.

In SLP 28477 Dr. Abhishek Manu Singhvi, Sr. Adv.  
Mr. Amit Bhandari, Adv.  
Ms. Manik Joshi, Adv.  
Mr. Chetan Kapadia, Adv.  
Mr. R.N. Karanjawala, Adv.  
Ms. Manik Karanjawala, Adv.  
Ms. Ruby Singh Ahuja, Adv.  
Ms. Ruchira Gupta, Adv.  
Mr. Jatin Mongia, Adv.  
Ms. Deepti Sarin, Adv.

Mr. Siddhant Kochhar, Adv.  
For M/S. Karanjawala & Co., Adv.

For Intervenor (s) Mr. Soli J. Sorabjee, Sr. Adv.  
In SLP 29599 Mr. Chandra Uday Singh, Sr. Adv.  
In IA No. 2 Mr. Hitesh Jain, Adv.  
Ms. Diya Kapur, Adv.  
Mr. Shyel Trehan, Adv.  
Mr. Vikas Mehta, Adv.  
Mr. Mehernaz Mehta, Adv.  
Ms Pooja Tdka, Adv.  
Mr. Nikhil Pillai, Adv.  
Mr. Arjun Singh Puri, Adv.

In IA No. 1 Dr. Abhishek Manu Singhvi, Sr. Adv.  
Mr. Amit Bhandari, Adv.  
Ms. Manik Joshi, Adv.  
Mr. Chetan Kapadia, Adv.  
Mr. R.N. Karanjawala, Adv.  
Ms. Manik Karanjawala, Adv.  
Ms. Ruby Singh Ahuja, Adv.  
Mr. Jatin Mongia, Adv.  
Ms. Deepti Sarin, Adv.  
Mr. Ishan Gaur, Adv.  
Mr. Siddhant Kochhar, Adv.  
For M/s. Karanjawala & Co., Adv.

For Respondent(s)  
For RBI in all SLPs Mr. Jaideep Gupta, Sr. Adv.  
Mr. Kuldeep S. Parihar, Adv.  
Mr. H.S. Parihar, Adv.

For RR Nos. 1 & 7  
in SLP 29599 Mr. Bhaskar P. Gupta, Sr. Adv.  
Mr. Ratnakar Banerjee, Adv.  
Mr. Snehal Kakrania, Adv.  
Mr. Sanjeev Kapoor, Adv.  
For M/S. Khaitan & Co., Adv.

For RR No. 4 in  
SLP 29599 Mr. Sumeet Lall, Adv.  
Mr. Abhishek Khare, Adv.

For RR in SLP  
27730 Mr. Dushyant Dave, Sr. Adv.  
Mr. S. Ganesh Sr. Adv.  
Mr. Bharat Sangal, Adv.  
Mr. Vikram Trivedi, Adv.  
Mr. Sachin Chandrana, Adv.  
Ms. Srijana Bana, Adv.  
Ms. Ramandeep Kaur, Adv.

For RR No. 3 in Mr. Ashok H. Desai, Sr. Adv.

SLP 28477 Mr. L.K. Bhushan, Adv.  
Mr. Anirudh Arun Kumar, Adv.  
Mr. Hosidarwadia, Adv.  
Mr. Fraser Alexander, Adv.  
Mr. Hoshedar Wadia, Adv.  
For M/S. Dua Associates, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Heard in part.

In the Master Circular on 'Willful Defaulters' dated 1st July, 2008, in paragraph No. 1, titled "Introduction", it is stated that 'willful default' covered all non-performing borrowal accounts with outstandings (funded facilities and such non-funded facilities which are converted into funded facilities) aggregating Rs.25 lakhs and

above identified as willful default.

We call upon the Reserve Bank of India to file an affidavit stating therein as to when, dues on account of derivatives as non-funded facilities get converted into funded facilities and as to whether such conversion to funded facilities takes place irrespective of whether cash credit limits are sanctioned in respect of derivatives in favour of a party or not.

This affidavit shall be filed as early as possible, and in any case, within a week from today.

All the parties can also file additional documents, if any, showing the exact nature of transaction between the Bank and the concerned customer along with affidavit within a week.

List tomorrow as part-heard.

| (G. SUDHAKARA RAO)  
| COURT MASTER

| | (SHARDA KAPOOR)  
| | COURT MASTER

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