

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

CIVIL APPEAL NO.7697 OF 2009

DHAVAL MEHTA

Appellant (s)

VERSUS

SECURITIES & EXCHANGE BOARD OF INDIA

Respondent(s)

(With appln(s) for ex-parte stay, permission to file additional documents and office report)

With Civil Appeal No.7861 of 2009 (For Prel. Hearing)
(With appln(s) for ex-parte stay, exemption from filing c/c of the impugned judgment and office report)

Date: 15/02/2010 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA
HON'BLE MR. JUSTICE SWATANTER KUMAR

For Appellant(s)

Mr. Harish N. Salve, Sr. Adv.
Mr. E.C. Agrawala, Adv.
Mr. Mahesh Agarwal, Adv.
Mr. Rishi Agrawala, Adv.
Ms. Neha Nagpal, Adv.

For Respondent(s)

Mr. Goolam E. Vahanvati, AG.
Mr. Pratap Venugopal, Adv.
Ms. Surekha Raman, Adv.
Mr. Dileep Poolakkot, Adv.
Mr. Purushottam Jha, Adv.
for M/s. K.J. John & Co., Advs.

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

Exemption allowed.

Permission to file additional documents is granted.

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Issue notice, limited to the question whether Securities and Exchange Board of India ['SEBI', for short] has the authority to impose penalty under Section 15(i) of the Securities and Exchange Board of India Act, 1992 ['Act', for short], returnable after ten weeks. This question arises in the context of the claim of the appellant that he is not a broker in the stock market and that there is no provision in the Act to impose penalty on "any person other than a stock broker". As far as penalty is concerned, SEBI is restrained from recovering the amount of Rupees one crore, subject to the appellant depositing the said amount in the Registry of this Court within ten weeks from today.

This Court would like to know whether the provisions of Reserve Bank of India Act, 1935,

concerning NBFC are at all attracted to the facts and circumstances of these cases, particularly when the appellant has been borrowing moneys at the rate of twenty one per cent and lending at the rate of 22.5 per cent. What happens if an individual carries on business which is in the nature of borrowing and lending? This Court would also like to know the nature of the business carried on by Ashmi Financial Consultants Private Limited, which claims to be a financier of the appellant herein.

We direct the appellant to implead Reserve Bank of India as respondent within a period of ten weeks.

Learned advocate-on-record, appearing for the SEBI, accepts notice. Counter to be filed by SEBI before the next date of hearing.

[T.I. Rajput]
A.R.-cum-P.S.

[Madhu Saxena]
Court Master