

Jehangir Khajotia

Advocate, High Court
Email id jehangirmk@gmail.com

Recd on 2/8/2024
at 2.00 PM in Court
room.

3rd Floor, Room No.16, Radha bhavan, Nagindas Master Road, Mumbai - 400 023

2nd August 2024

1. Mr. Ashwin S. Mehta,
Advocate for the Applicant,
32, Madhuli Apartments,
Dr. Annie Besant Road,
Worli, Mumbai – 400 018.

Madam/Sir,

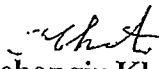
Re. Before the Special Court (Trial of Offences Relating to
Transaction in Securities) Act, 1992
Misc. Application No.10 of 2023
Jyoti H. Mehta ... Applicant
Versus
The Custodian & Ors. ... Respondents

I am concerned for my clients, the Respondent Nos.5, 8.1 and 9.1
in the above matter.

Please find enclosed herewith the copy of the Reply to the
additional affidavit filed on behalf of my client, the Respondent No.5, as
and by way of service upon you. Kindly acknowledge receipt of the same.

Yours faithfully,

Encl: as above.


(Jehangir Khajotia)
Advocate High Court

BEFORE THE SPECIAL COURT (TRIAL OF OFFENCES RELATING
TO TRANSACTIONS IN SECURITIES) ACT, 1992

MISC. APPLICATION NO.10 OF 2023.

Smt. Jyoti H. Mehta

.... Applicant

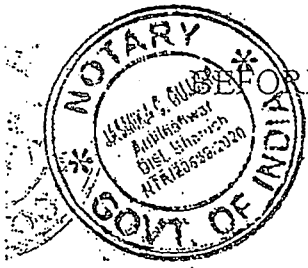
Versus

The Custodian & Ors.

.... Respondents

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BEFORE THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES) ACT, 1992

MISC. APPLICATION NO.10 OF 2023

Smt. Jyoti H Mehta, As sole legal heirs of late

Harshad S Mehta residing at 32, Madhuli, Dr. Annie

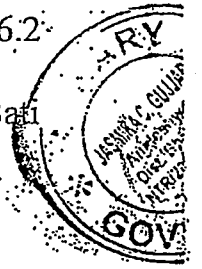
Besant Road, Worli, Mumbai – 400018.

.....Applicant.

Versus

1. The custodian having their office 221 Nariman Bhavan, 10th floor, Nariman point, Mumbai – 400021.
2. Hero Metro Corp Ltd., having its office at the Grand Plaza, Plot no. 2, Nelson Mandela Road, Vasant Kunj, Phase II, New Delhi – 110070.
3. KFin Technologies Pvt. Ltd, having its office at Selenium, Tower B, Plot nos. 31 and 32, Financial District, Nanakramguda, Serlingampally Mandal, Hyderabad – 500032.
4. Chairman, Investor Education & Protection Fund (IEPF), having its office at Ground floor, Jeevan Vihar Building, 3 Sansad Marg, New Delhi – 110001.
5. Nirav D. Jobalia, residing at c/o Bella Electronics, 5/6 Sevasharam Shopping Centre, 5 Bati Bharuch- 392001.
6. Late Nilesh D. Jobalia,
- 6.1 Alpa N. Jobalia

6.2 Aditi N. Jobalia, respondent no. 6 is represented by legal heirs 6.1 and 6.2 residing at c/o Bella Electronics, 5/6 Sevasharam Shopping Centre, 5 Bati Bharuch- 392001.



7. Alpa N. Jobalia, residing at c/o Bella Electronics, 5/6 Sevasharam Shopping Centre, 5 Bati Bharuch- 392001.

8. Late DalichandJhoothalalJobalia,

8.1 ShriNirav D Jobalia, Respondent no. 8 is represented by sole legal heirs Respondent no. 8.1, residing at flat no. B-801, Arihant Avenue -C, Jamnagar Road, Ghanteshwar, Rajkot ,Gujrat - 360006.

9. Late SmitabenDalichandJobalia,

9.1 ShriNirav D. Jobalia, Respondent no. 9 is represented by sole legal heir Respondent no. 9.1, residing at flat no. B-801, Arihant Avenue -C, Jamnagar Road, Ghanteshwar, Rajkot ,Gujrat - 360006.

.....Respondents

AFFIDAVIT IN REPLY OF THE RESPONDENT NO.5, NIRAV D. JOBALIA TO THE ADDITIONAL AFFIDAVIT OF SMT. JYOTI H. MEHTA, SOLE LEGAL HEIR OF LATE SHRI HARSHAD S. MEHTA:

I, **Nirav D. Jobalia**, Age 44 years, the Respondent no.5 above named, Hindu, Indian Inhabitant, having address at D-404, Annapurna Complex, Kasak, Bharuch 392 001, do hereby on solemn affirmation say as under:



1. It is submitted on behalf of the Respondent No.5 that he has received a copy of the Additional Affidavit of Smt. Jyoti H. Mehta and in reply thereto, I state and submit as under.
2. I say that whatever the Applicant has stated in her Additional Affidavit is denied by me and same should be admitted by me, unless it is so specifically stated by me.
3. With reference to paragraph 1 of the Additional Affidavit, I say that it is true that the Respondent No.5 filed his Affidavit in Reply to the main Application of the Applicant. It is also true that the Applicant filed Affidavit in Rejoinder to my Affidavit in Reply. It is true that Respondent No.5 had sought time to file Sur-Rejoinder and the same was allowed by this Hon'ble Court vide order dated 8th December 2023 and the said time was extended by the order dated 5th January 2024.
4. With reference to paragraph 2 of the Additional Affidavit, the Respondent No.5 has rightly denied the valid claim of the Applicant as set out in the original Application filed by the Applicant and today also he is denying that the Applicant has no valid claim on the shares of the Respondent No.2. It is also denied that the Respondent No.5 has ever taken patently illegal and factually incorrect stand. It is also denied that the stand taken by him in order to achieve their malafide objects by

suppressing and withholding from this Hon'ble Court material fact and evidence in his possession by acting in collusion with each other, so as to cover up their patent illegal acts. Since no accusation has been passed against the answering Respondent in connection with shares of Respondent No.2 owned by him no comments are offered on the same.



5. With reference to paragraph 2(i) of the Additional Affidavit, since no accusation has been passed against the answering Respondent in connection with shares of Respondent No.2 owned by him no comments are offered on the same.
6. With reference to paragraph 2(ii) of the Additional Affidavit, since no accusation has been passed against the answering Respondent in connection with shares of Respondent No.2 owned by him no comments are offered on the same.
7. With reference to paragraph 2(iii) of the Additional Affidavit, since no accusation has been passed against the answering Respondent in connection with shares of Respondent No.2 owned by him no comments are offered on the same.
8. With reference to paragraph 2(iv) of the Additional Affidavit, since no accusation has been passed against the answering Respondent in

connection with shares of Respondent No.2 owned by him no comments are offered on the same.



With reference to paragraph 2(v) of the Additional Affidavit, since no accusation has been passed against the answering Respondent in connection with shares of Respondent No.2 owned by him no comments are offered on the same.

10. With reference to paragraphs 2(vi), 2(vii) and 2(viii) of the Additional Affidavit, since no accusation has been passed against the answering Respondent in connection with shares of Respondent No.2 owned by him no comments are offered on the same. Further, Respondent No.5 like to state that there is no order passed by this Hon'ble Court for attaching the shares belonging to Respondent No.2, which the Applicant is wrongfully claiming from the Respondent No.5 in the absence of any order, the claim of the Applicant against the Respondent No.5 is not maintainable.
11. With reference to paragraph 3 of the Additional Affidavit, since no accusation has been passed against the answering Respondent in connection with shares of Respondent No.2 owned by him no comments are offered on the same.

12. With reference to paragraph 4 of the Additional Affidavit, it is denied that the object of the Respondent No.2 and Respondent No.5 is to work in collusion with each other by suppression of material fact and evidence in their possession. It is denied that the Respondent No.5 has filed false and baseless Affidavit in Reply and the same would get conclusively established through the present Additional Affidavit being filed by the Applicant. On the contrary, the Additional Affidavit filed by the Applicant does not hold any water to come to the conclusion and browbeat the case of the Respondent No.5, as projected by him in his Affidavit in Reply.

13. With reference to paragraph 5 of the Additional Affidavit, since no accusation has been passed against the answering Respondent in connection with shares of Respondent No.2 owned by him no comments are offered on the same.

14. With reference to paragraph 6 of the Additional Affidavit, it is denied that the Respondent No.5 is declared as Benami Shareholder of Mehta in connection with 800 shares of the Respondent No.2 only to the present extent mentioned herein it is denied by him. It is denied that IT Department furnished on oath particulars of Benami shares of Respondent No.2 standing in the name of Respondent No.5 and further it is denied by the Respondent No.5 that since the custodian did not take

any steps or recover the above Benami shares, the same came to be transferred to Respondent No.4 (IEPF) together with accrued shares and dividends on them. The said shares were rightly processed from the Company and IEPF and after that the same came to be transferred. The said fact is evident, as projected rightly by Respondent No.5 in his Affidavit and Sur-Rejoinder filed by him before this Hon'ble Court.



15. With reference to paragraph 7 of the Additional Affidavit, it is denied by the Respondent No.5 that he has filed false claim of recovery of Benami shares in collusion with Respondent No.2 who deliberately assisted in the illegal efforts of Respondent No.5. The Respondent No.5 following due process of law as mentioned in his Affidavit in Reply and Affidavit in Sur-Rejoinder and had rightly followed the IEPF procedures and is rightly claiming that the said original shares were never declared to be Benami holding of Respondent No.2. It is denied by the Respondent No.5 that the said shares were ever Benami and the accruals thereon were also Benami.
16. With reference to paragraph 8 of the Additional Affidavit, the reasons given for not filing the same the copies as mentioned by her in the present paragraph is not at all justifiable and has out rightly to be rejected. If the case of the Applicants ought to have been true, she would have produced the same in her earlier application.

17. With reference to paragraph 9 of the Additional Affidavit, the question of law has been raised by the Applicant in the present paragraph and the same does not require any comments and will be argued as and when called for.
18. With reference to paragraph 10 of the Additional Affidavit, since no accusation has been passed against the answering Respondent in connection with shares of Respondent No.2 owned by him no comments are offered on the same.
19. With reference to paragraph 11 of the Additional Affidavit, since no accusation has been passed against the answering Respondent in connection with shares of Respondent No.2 owned by him no comments are offered on the same. The Respondent No.5 is dealing with various exhibits relied by the Applicant hereunder.
- a) As per Exhibit B the said letter relied by the Applicant is addressed by the Respondent no 1 to Respondent no 2. The said letter has no bearing or reference to Respondent no 5, has no comments are offered on the same.
- b) As per Exhibit C the said letter relied by the Applicant is addressed by the Respondent no 1 to Respondent no 2. The said letter has no



bearing or reference to Respondent no 5, has no comments are offered on the same.



- c) As per Exhibit D the said letter is dated 28/09/1999, the said letter is addressed by the Respondent no 1 to Respondent no 2. In connection with affidavit filed by the Deputy Commissioner of Income Tax. The contents of the said affidavit filed by the commissioner is not admitted by me and then the same may be proved in accordance with law. The said affidavit was filed in misc. Petition no 99 of 1998. The said petition was disposed of on 8th April 2023, but the shares which the Applicant is claiming from the Respondent no 5 is nowhere declared as Benami. The said order has attained finality and of no recourse to the Applicant. If the affidavit ought to have been true, filed by the Deputy Commissioner, the name of kalpana Jhobalia is also appearing in annexure of the affidavit, but she is not made a party to the present application. These again shows that the Affidavit is of no recourse or help to the Applicant. The said Applicant has not filed the said Exhibit D along with the affidavit earlier, when she filed the original Misc Application on 27th Feb 2023, hence on the ground of delay of nearly 1 year has to be rejected.
- d) As per Exhibit E, F, G,H The said Exhibits has no bearing or reference to Respondent no 5, has no comments are offered on the same.

e) As per Exhibit I , J,K L, M, N, O, P The said Exhibits has no bearing or reference to Respondent no 5, has no comments are offered on the same.



20. With reference to paragraph 12 of the Additional Affidavit, the contents of the Affidavit filed by the Income Tax Department in Misc. Petition No.99 of 1998 is completely denied by the Respondent No.5. The copy of the Misc. Petition No.99 of 1998 is nowhere produced by the Applicant in her Additional Affidavit and nowhere is it mentioned by the Applicants that the Respondent No.5 was a party to the Misc. Petition No.99 of 1998. The said Affidavit cannot be read against the answering Respondent.

21. With reference to paragraph 13 of the Additional Affidavit, it is denied that the Respondent No.2 had acted in collusion with Respondent No.5 in particularly by deciding and adjudicating on the issue of the ownership denying any legitimate claim and holding the title in favor of answering Respondent. It is denied that the answering Respondent is profiting out of their own wrong. Already the answering Respondent has mentioned that he is the rightful owner of the said shares of Respondent No.2 and

the said shares originally in 800 in numbers were never the attached shares. Therefore, there is no need to make good the attached Benami shares with all accruals thereon and further to levy interest on them @24% p.a. on the amounts of attached dividends and for the periods that they have remained unpaid to the Custodian.



22. With reference to paragraph 14 of the Additional Affidavit, the question of law has been raised by the Applicant in the present paragraph and the same does not require any comments and will be argued as and when called for. Since no accusation has been passed against the answering Respondent in connection with shares of Respondent No.2 owned by him no comments are offered on the same.
23. With reference to paragraph 15 of the Additional Affidavit, since no accusation has been passed against the answering Respondent in connection with shares of Respondent No.2 owned by him no comments are offered on the same. Further, the Respondent No.5 like to state that there is no pending recovery of the attached shares from the Respondent No.5. A false statement has been made by the Applicant and does not call for any answer from the answering Respondent.

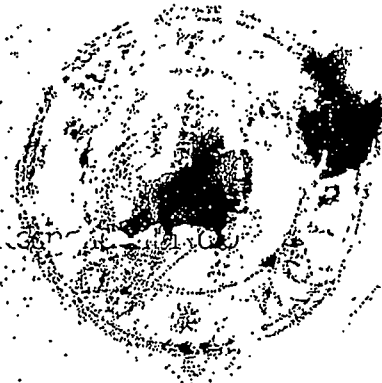
24. With reference to paragraph 16 of the Additional Affidavit, since no accusation has been passed against the answering Respondent in connection with shares of Respondent No.2 owned by him no comments are offered on the same. Further it reveals that the Applicant is in touch with kalpana Jhobalia ,for the oblique purpose of the recovery of shares ,which he has no right under the law except the Respondent no 1.



25. With reference to paragraph 17 of the Additional Affidavit, the Respondent No.5 has nothing to reply.

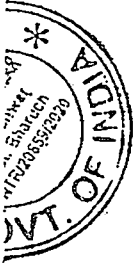
26. It is therefore prayed on behalf of the Respondent No.5 that the Applicant is not entitled to any of the reliefs as sought for in the Miscellaneous Application and therefore, pray that the Miscellaneous Application be dismissed in limine with costs.

Shreya
Advocate for Respondent No.5



VERIFICATION

I, Nirav D. Jobalia, Age 44 years, Hindu, Indian Inhabitant, having address at D-404, Annapurna Complex, Kasak, Bharuch 392 001, do hereby declare that what is stated in the foregoing paragraphs of the Affidavit are true to my own knowledge.



Solemnly affirmed at Mumbai)

Dated 30th day of January 2024)

[Signature]

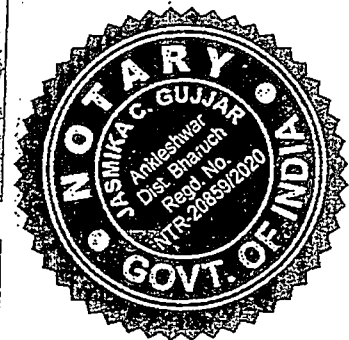
[Signature]
Advocate for Respondent no. 5
I know the Respondent
and Identified by me:

Before me,

Advocate
G/ /

Register Serial No. *1178/2024*
Date : *30 JAN 2024*
My Commission Expires
on 08-03-2025

SOLEMNLY AFFIRMED
BEFORE ME
[Signature]
JASMIKA C. GUJJAR
ADVOCATE & NOTARY
NTR/20859/2020
Ankleshwar, Dist. Bharuch.



BEFORE THE SPECIAL COURT (TRIAL OF
OFFENCES RELATING TO TRANSACTIONS IN
SECURITIES) ACT, 1992

MISC. APPLICATION NO.10 OF 2023

Smt. Jyoti H. Mehta ... Applicant

Versus

The Custodian & Ors. .. Respondents



REPLY TO ADDITIONAL AFFIDAVIT,
ON BEHALF OF RESPONDENT NO.5,
NIRAV D. JOBALIA:

Dated this 18th day of January 2024

Jehangir Khajotia
Advocate for the Respondent No.5
Radha Bhavan, 3rd Floor,
M.G. Road, Fort,
Mumbai – 400 023