

**BEFORE THE COMMITTEE CONSTITUTED UNDER THE BOMBAY HIGH
COURT ORDER DATED 2nd SEPTEMBER 2014 IN SUIT NO.173 OF 2014**

AND OTHER RELATED SUITS COMPRISING

JUSTICE V.C. DAGA (RETD.) CHAIRMAN,

MR. J.S.SOLOMON (ADVOCATE AND SOLICITOR-MEMBER) AND

MR. YOGESH THAR (CHARTERED ACCOUNTANT MEMBER)

MODERN INDIA LIMITED & ORS

...PLAINTIFFS

VS.

FINANCIAL TECHNOLOGIES (INDIA) LTD.

AND OTHERS

...DEFENDANTS

APPEARANCES:

Mr. Ameet Naik, Mr. Chirag Kamdar, Ms. Anuja Jhunjhunwala, Ms. Priya Khaitan, Ms. Saloni Sulakhe and Mr. Rohit Mangalsule, Advocates i/b M/s. Naik Naik and Co. for NSEL

Mr. Vishal Pokarne, Mr. Anand Daksh, Mr. R. Mohan, and Mr. Pravin Rathod, Representatives of NSEL.

Mr. Arvind Wadhavkar, Chief I.O. and Sr. P.I., EOW.

Mr. Shaneen Parikh- FTIL/J. Shah i/b M/s. Cyril Amarchand Mangaldas

Mr. M.G. Agre i/b Mr. G.B. Kedia for Rajena Agro Products Ltd. and Mr. Sayeed A. Patel.

Mr. O.P.Singh, for M/s. Rayen Steels Pvt. Ltd.

Mr. Bijal Mehta i/b Mr. Deven Dwarkadas & Partners for NAARA.

Ms. Nivedita Atre with Ms. Chinmayee Jagtap i/b M/s. Mansukhlal Hiralal and Co. (In L.J. Tanna Suit)

Mr. Ravi Warriar, Ms. Hiral Thakkar and Mr. Ashwin Bhadang i/b M/s. Federal and Rashmikant- Plaintiffs- Modern India

Mr. Arun Shilwant, Advocate for M/s. Vimaladevi Agrotech Ltd.

Ms. Shaista Pathan, Advocate with Ms. Gyanika Kochar, Advocate i/b M/s. Yusuf and Associates for Prime Zone Developers Pvt. Ltd.

Ms. Ujwala Moti with Mr. C. Singh for Shah Minerals Pvt. Ltd.

Ms. Blinda Rebelow and Mr. S.B. Sharma- Investors.

Mr. Mohit Agarwal, Director of M/s. Aastha Minmet India Pvt. Ltd.

ORDER SHEET NO. 41A
(Dated 26th September, 2015)

- 1 Heard Mr. M.G.Agre, Advocate.
- 2 Mr. Agre, Advocate has filed an affidavit of Mr. Sayeed A. Patel on behalf M/s. Rajena Agro Products Ltd., stating therein that the accounts books of the company cannot be produced since the possession of the property wherein account books are kept has been taken over by Kotak Mahindra Bank. Thus the Account Books are presently lying in possession of Kotak Mahindra Bank.
- 3 In order to determine the liability of M/s. Rajena Agro Products Ltd., it is necessary to have the Accounts Books before the Committee.
- 4 It is needless to mention that under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "SARFAESI Act"), what can be possessed by the Bank is only the mortgaged property, namely the immovable property, not the Account Books lying therein.
- 5 The borrower of the Bank and the alleged defaulter before the Committee is not willing to apply to the Bank to get the Accounts Books; obviously, with intend~~d~~ to avoid determination of its liability.
- 6 In the circumstances, the Committee is of the view that it would be appropriate to make a request to Kotak Mahindra Bank to produce the Account Books of M/s. Rajena Agro Products Ltd. lying in the property possessed by the Bank under the provisions of SARFAESI Act.
- 7 On the above backdrop, we direct that the notice be issued to Kotak Mahindra Bank requesting them to produce the Account Books in relation to the accounts of M/s. Rajena Agro

Products Ltd., their borrower and mortgagor, who had mortgaged the property with the Bank and ultimately, adjudged as a defaulter. Notice be made returnable on **10th October, 2015 at 2.00 p.m.**


8 Mr. Sayeed A. Patel is also directed to disclose the other properties held by him with encumbrances thereon, if any, which he has offered as collateral securities under the agreement executed in favour of NSEL, details of which are as under:

Sr.No.	Flat	Present Owner	Address	Are a Sq.ft	Fair market value
1	Flat	Sayeed Abdul Rahim Patel	A-1304, AK Towers, Madina Manzil Compound, S.V.Road, Goregaon (West), Mumbai 62	850	Rs.1.50 crores
2	Flat	Sayeed Abdul Rahim Patel	A-1305, AK Towers, Madina Manzil Compound, S.V.Road, Goregaon (West), Mumbai 62	850	Rs.1.50 crores

9 **Stand Over to 10th October, 2015 at 2.00 p.m.**


JUSTICE V.C.DAGA (RETD.)
CHAIRMAN


J.S.SOLOMON
ADVOCATE AND SOLICITOR


YOGESH THAR
CHARTERED ACCOUNTANT
MEMBERS

