

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision: 29.11.2019

Appeal No. 579 of 2019

Karvy Stock Broking Limited
Plot No. 31/P,
Karvy Millenium, Nanakramguda,
Financial District,
Gachibowli, Hyderabad,
Telengana- 500 032

...Appellant

Versus

Securities and Exchange Board of India,
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai-400 051

...Respondent

Mr. Vikram Nankani, Senior Advocate with Mr. KRCV Seshachalam, Ms. Sabeena Mahadik, Mr. Pankaj Uttaradhi, Mr. Sagar Hate and Mr. Aayush Kothari, Advocates i/b Vissha Law Services for the Appellant.

Mr. Rafique Dada, Senior Advocate with Mr. Anubhav Ghosh, Advocate i/b The Law Point for the Respondent.

CORAM: Justice Tarun Agarwala, Presiding Officer
Justice M. T. Joshi, Judicial Member

Per: Justice Tarun Agarwala (Oral)

1. Filing of the certified copy of the impugned order is dispensed with.

2. We have heard the learned counsel for the parties. Based on a preliminary report dated November 22, 2019 given by National Stock Exchange of India Limited, the Whole Time Member (“WTM” for convenience) issued an ex-parte ad interim order dated November 22, 2019 restraining the appellant from taking new clients in respect of its stock broking activities and also prevented the appellant from using the “power of attorney” given by its clients. The WTM also issued other directions the details of all the directions are extracted hereunder:-

- “(i) *KSBL is prohibited from taking new clients in respect of its stock broking activities;*
- (ii) *The Depositories i.e. NSDL and CDSL, in order to prevent further misuse of clients’ securities by KSBL, are hereby directed not to act upon any instruction given by KSBL in pursuance of power of attorney given to KSBL by its clients, with immediate effect;*
- (iii) *The Depositories shall monitor the movement of securities into and from the DP account of clients of KSBL as DP to ensure that clients’ operations are not affected;*

- (iv) *The Depositories shall not allow transfer of securities from DP account no. 11458979, named KARVY STOCK BROKING LTD (BSE) with immediate effect. The transfer of securities from DP account no. 11458979, named KARVY STOCK BROKING LTD (BSE) shall be permitted only to the respective beneficial owner who has paid in full against these securities, under supervision of NSE; and*
- (v) *The Depositories and Stock Exchanges shall initiate appropriate disciplinary regulatory proceedings against the Noticee for misuse of clients' funds and securities as per their respective bye laws, rules and regulations”*

3. The appellant being aggrieved by the ex-parte ad-interim order has filed the present appeal. The learned senior counsel has confined his submission to only one aspect at this stage namely, the direction no. (ii) which restrains the appellant from using the power of attorney given by its clients. The learned senior counsel submitted that in due course they would be filing the application for revocation of order before the WTM but in the meantime since direction no. (ii) as stated aforesaid was

creating a problem in settling of the trades of their clients with the clearing house it became necessary to seek certain clarifications from the WTM and, in this regard, the appellant issued letters dated November 24, 2019, November 25 and November 26, 2019 seeking certain clarifications. Since no response came forward from the respondent the appeal was filed for this limited purpose.

4. It was contended that direction no. (ii) restrains the appellant from not acting upon the instructions given to it by its clients pursuant to the power of attorney. Direction no. (ii) has resulted in the appellants' inability to execute the instructions given by its clients on the basis of the power of attorney. Since the client of the appellant are trading online they are also unable to transfer the securities from the clients demat account to the pool account for the purpose of clearing the trades with the clearing house. Considering the aforesaid, the necessary clarifications were sought from the respondent.

5. On the other hand, the learned senior counsel for the respondent contended that they have serious apprehension in allowing the prayer of the appellant as it might lead to further misuse of the power of attorney given to them by their clients.

6. Be that as it may. Since a clarification has been sought by the appellant we deem it fit and proper that the WTM should look into this aspect and pass appropriate order after giving an opportunity of hearing to the appellant.

7. We accordingly dispose of this appeal at this stage with a direction to the WTM to consider the request of the appellant which has been made vide letters dated November 24, 25 and 26, 2019 and pass an appropriate order after giving an opportunity of hearing by December 02, 2019.

Sd/-
Justice Tarun Agarwala
Presiding Officer

Sd/-
Justice M. T. Joshi
Judicial Member