

*Sharayu*

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION (L) NO. 471 OF 2015**

**IN**

**THIRD PARTY NOTICE NO. 5 OF 2014**

**IN**

**SUIT NO. 173 OF 2014**

National Spot Exchange Limited ...Applicant  
IN THE MATTER BETWEEN  
Modern India Ltd. & Ors. ...Plaintiffs  
*Versus*  
Financial Technologies (India) Limited & Ors. ...Defendants  
And  
MSR Food Processing & Anr. Third Party  
Noticees

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**Mr. S.U. Kamdar**, *Sr. Advocate a/w Ameet Naik, Chirag Kamdar, Abhishek Kale, Asadulla Thayle i/b M/s. Naik Naik & Co., for the Applicant.*

**Mr. Akshay Patil**, *and Ms Hiral Thakkar i/b M/s. Federal & Rashmikant, for the Plaintiffs.*

**Ms. Priyanka Vora**, *i/b M/s. Amarchand Mangaldas & S.A. Shroff, for the Defendants nos. 1, 5, 20 & 22.*

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**CORAM: G.S. PATEL, J**

**DATED: 20th February 2015**

**PC:-**

1. This is an application by the National Spot Exchange Limited, original Defendant No. 2. Today limited ad-interim reliefs are sought against two Third Party Noticees. The Third Party Noticees have been served. An Affidavit of Service is tendered and is taken on file. The Third Party Noticees and their Advocates are absent. Mr. Kamdar points out that Mr. Sampat Rao, who is said to be the sole person behind Noticee No. 1 is absconding and this is evident from the report of the committee constituted by this Court under the Chairmanship of Justice V.C. Daga (Retired).

2. Mr. Kamdar also points out that the commodity in question was a very large quantity of rice, i.e. 8993 metric tonnes, of which an amount of 8877 metric tonne seems to have been diverted or has gone missing. It is for this reason and to prevent further loss of commodity that Mr. Kamdar presses his prayer for the appointment of ad-interim receiver.

3. Having heard Mr. Kamdar, and in view of the absence of the Third Party Noticees despite service, in my view, it is necessary that ad-interim reliefs as presently sought to be granted. If that is not done, irretrievable prejudice will be caused, not only to the Applicant, but to the general public as well. The balance of convenience is clearly with the Applicant.

4. There will, therefore, be an ad-interim order in prayer clauses (e) and (f), which read thus:

“(e) Pending the hearing and final disposal of the Third Party Notice, this Hon'ble Court be pleased to order and direct the Third Party Noticees to disclose, on affidavit within such time as this Hon'ble Court may deem fit and proper, all their movable and immovable assets, properties and assets including bank accounts and demat accounts with all details of funds debited and credited, physical shares, bonds, fixed deposits and capital assets (including plant and machinery), acquired by the Third Party Noticees (for themselves or on behalf of any related entity);

(f) that pending hearing and final disposal of the Third Party Notice, the Third Party Noticee Nos. 1 and 2 be directed and/ or injuncted from disposing of, alienating, encumbering, parting with possession of and / or otherwise creating third party rights in respect all their movable and immovable assets, properties and assets including bank accounts and demat accounts with all details of funds debited and credited, physical shares, bonds, fixed deposits and capital assets (including plant and machinery), acquired by the Third Party Noticees (for themselves or on behalf of any related entity) as disclosed in terms of prayer (c) above;”

5. In addition, pending the hearing and final disposal of the Third Party Notices, the Court Receiver, High Court, Bombay is appointed Receiver of the Commodity mentioned in paragraph 9 of the Affidavit in Support of the present Notice of Motion and of the commodity lying in the warehouse mentioned in that paragraph at Warangal. The Court Receiver is not to dispose of any quantity of the commodity found in that warehouse. That commodity will, however, be inventoried and sufficiently sealed so as to indicate that it is in the custody of the Court Receiver.

6. I am informed that in these matters, the Court Receiver's office frequently deposes different officers at different times. In order that there is continuity and consistency, the Court Receiver is directed to designate a single officer to act under all orders in this group of matters.

7. All concerned to act on an authenticated copy of this order.

**(G. S. PATEL, J.)**

Bombay High Court