

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****NOTICE OF MOTION (L) NO. 2900 OF 2014****IN****THIRD PARTY NOTICE NO. 7 OF 2014****IN****SUIT NO. 173 OF 2014****National Spot Exchange Limited****..... Applicant/
Org. Defendant no.2****IN THE MATTER BEWTEEN****Modern India Ltd. & Ors.****..... Plaintiffs****VERSUS****Financial Technologies (India) Limited & Ors. Defendants**

Mr.S.U.Kamdar, Senior Advocate, a/w.Dr.Birendra Saraf, Mr.Ameet Naik, Ms.Anuja Jhunjunwala, i/b. Naik Naik & Co. for the Applicant in CHS.

Mr.Akshay Patil, a/w. Hiral Thakkar, i/b. Federal & Rashmikant for the Plaintiffs.

None for Third Party Noticees.

CORAM : R.D. DHANUKA, J.**DATED : 23rd DECEMBER, 2014****P.C.**

Mr.Kamdar, learned senior counsel appearing for the applicant (original defendant no.2) tenders affidavit of service dated 23rd December, 2014 and submits that all the third party noticees have been served. None appeared for the third party noticees. Matter is placed on board for ad-interim relief.

2. Learned senior counsel invited my attention to the letter dated 1st August 2013 from third party noticees to the applicant admitting liability of Rs.15.44 crores subject to final accounts due and payable to the applicant. My attention is

also invited to the minutes of meeting held between the parties. The third party noticees have admitted the liability of Rs.14.02 crores subject to reconciliation. A perusal of the said minutes of meeting indicates that the third party noticees have agreed to clear such liability by selling the assets of the third party noticees.

3. Learned senior counsel also invited my attention to the order passed by MPID Court on 11th September, 2014 which also indicates that the third party noticees have admitted their liability and have made a statement that if secured moveable and immoveable properties are being sold, they have no objection.

4. It is the apprehension of the applicant that the third party noticees may create third party rights in respect of the properties described in Exs.E and F to the notice of motion and if any such third party rights are created, the applicant would not be able to recover any amount from third party noticees. Case is made out for grant of ad-interim reliefs.

5. There shall be ad-interim reliefs in terms of prayer clauses (e), (f) and (g). Affidavit of disclosure shall be filed within four weeks from the date of communication of this order. Affidavit shall be also filed on merits simultaneously. Rejoinder if any, shall be filed within two weeks from the date of service of affidavit in reply and affidavit of disclosure.

6. Place the notice of motion on board for hearing in the **week commencing from 9th February, 2015.**

[R.D. DHANUKA, J.]