www.taxmann.com Vol. 193 : Issue 2: July 16 - July 31, 2026

ISSN : 0972-818X

SEBI AND CORPORATE LAWS

A Fortnightly on Securities Laws I Company Law I Insolvency Laws

HIGHLIGHTS

- Where Society had borrowed funds from appellant finance company, executed promissory notes and MoU acknowledging liability, and cheque issued for repayment was dishonoured, in view of fact that material indicated respondent Nos. 1, 2 and 4, namely Vice-President, Treasurer and Manager of Society, were signatories to cheque, linking them to transaction so proceedings against them could not be quashed, but since no specific role was attributed to respondent No. 3 - Executive Member beyond general office bearer status, proceedings against him were rightly quashed (**SC**) **157**
- Where appellant, a promoter of RPL, executed bulk cash and futures transactions *via* agency agreements and SEBI alleged manipulation and fraud, evidence showed futures positions were valid hedges with no obligation to maintain a perfect 1:1 hedge, price movement in settlement window was not coercion, and appellant's substantial continuing shareholding made an artificial price decrease implausible, resulting in no liability for fraud or manipulation and disgorgement being set aside (**SC**) **173**
- Where applicant, acting as CFO and authorised signatory of Reliance entities, was alleged to have been involved in submission of forged bank guarantees to SECI, and material relied upon by ED, including statements and documentary evidence, did not enable satisfaction that applicant was not guilty of offence alleged, twin conditions under section 45 of PMLA, 2002 were not satisfied and regular bail was denied at this stage (Delhi) **300**
- Where respondent had invested in commercial space and paid full sale consideration, but claim was based on RERAA order passed during moratorium which created a new liability, such claim could not be maintained, however, Resolution Professional was required to verify if respondent made payment as claimed and include genuine underlying allottee/investor payments as liability after due verification (NCLAT- New Delhi) **278**
- Where plaintiff filed a civil suit challenging equitable mortgage and seeking partition, but property was mortgaged and auction proceeded under SARFAESI Act, objections were required to be raised before DRT/DRAT and, thus, impugned order passed by trial court rejecting plaint as barred by law suffered with no illegality or infirmity (Rajasthan) **147**
- Where statutory ouster under Companies Act severs director status from shareholding and bars civil court jurisdiction over corporate procedures such as removal of directors, a civil court neither acquires jurisdiction through unexecuted commercial agreements nor may grant injunctions against statutory corporate acts, and an investor with unperfected equity has adequate specialized remedy before NCLT, so *ad interim* civil court injunction was quashed (Calcutta) **249**

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Price : ₹ 1,000

FOUNDER EDITOR
U.K. BHARGAVA
EDITOR
RAKESH BHARGAVA
HONY. CONSULTING EDITOR
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SEBI & Corporate Laws comes in Four Volumes, Annual subscription for the year 2026 is ₹ 17,500. Single copy ₹ 1000 only.

Back years' volume ₹ 3000 per volume for paper back and add ₹ 300 per volume for Hard case binding.

SEBI & Corporate Laws fortnightly is published on 1st & 16th every month. **Non-receipt of part must be notified within 60 days of the due date.**

Address your editorial and subscription correspondence to: **Taxmann Allied Services (P.) Ltd.**, 59/32, New Rohtak Road, New Delhi-110 005. Phone : 91-11-45562222.

Printed and Published by Ansh Bhargava on behalf of Taxmann Allied Services (P.) Ltd. and Printed at Tan Prints (India) Pvt. Ltd., 44 Km. Mile Stone, National Highway, Rohtak Road, Village Rohad, Distt. Jhajjar (Haryana) and Published at 59/32, New Rohtak Road, New Delhi-110 005 - Editor : Rakesh Bhargava

Email : sales@taxmann.com
Website : www.taxmann.com
ISSN : 0972-818X

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