

**“Custodian denying the benefit to Mehtas of the law laid down by Hon’ble Supreme Court in Harshad Mehta’s case and acting with ulterior object of uprooting the family filed MP 41 of 1999 before Special Court to seek relief of sale of 8 residential flats at Madhuli Apartments on the ground that the liabilities were substantial even though they were not crystallized as required under the above judgment.”**

**BEFORE THE SPECIAL COURT CONSTITUTED UNDER  
THE SPECIAL COURT (TRIAL OF OFFENCES RELATING  
TO TRANSACTIONS IN SECURITIES) ACT, 1992**

**MISCELLANEOUS PETITION NO. 41 OF 1999**

**THE CUSTODIAN**

.....PETITIONER

VERSUS

**HARSHAD S. MEHTA & ORS.**

.....RESPONDENTS

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**BEFORE THE SPECIAL COURT CONSTITUTED UNDER  
THE SPECIAL COURT (TRIAL OF OFFENCES RELATING  
TO TRANSACTIONS IN SECURITIES) ACT, 1992  
MISCELLANEOUS PETITION NO. 41 OF 1999**

The Custodian appointed under the Special Court (Trial of )  
Offences relating to transactions in securities) Act, 1992 )  
having his Mumbai Office at 9<sup>th</sup> Floor, Nariman Bhavan, )  
Vinay K. Shah Marg, Nariman Point, Mumbai 400 021. )....Petitioner

Versus )

1. Shri Harshad S. Mehta of Mumbai Indian Inhabitant )

having his office at 1205-6 Maker Chambers V, 221 )

Nariman Point, Mumbai 400 021. )

1a. )

1b. Please see Rider 'C'

1c. )

2. Shri Ashwin S. Mehta of Mumbai Indian Inhabitant )

having his office at 1205-6 Maker Chambers V, 221 )

Nariman Point, Mumbai 400 021. )

3. Shri Hitesh S. Mehta of Mumbai Indian Inhabitant )

having his office at 1205-6 Maker Chambers V, 221 )

Nariman Point, Mumbai 400 021. )

4. Smt. Jyoti H. Mehta of Mumbai Indian Inhabitant )

having his office at 1205-6 Maker Chambers V, 221 )

Nariman Point, Mumbai 400 021. )

)

5. Smt. Deepika A. Mehta of Mumbai Indian )  
 Inhabitant having his office at 1205-6 Maker )  
 Chambers V, 221 Nariman Point, Mumbai 400 021. )  
 )
6. Smt. Pratima H. Mehta of Mumbai Indian Inhabitant )  
 having his office at 1205-6 Maker Chambers V, 221 )  
 Nariman Point, Mumbai 400 021. )  
 )
7. M/s. Aatur Holdings Pvt. Limited a company )  
 incorporated under the Companies Act, 1956 and )  
 having its office at 1205-6 Maker Chambers V, 221 )  
 Nariman Point, Mumbai 400 021. )....Respondents
8. Commissioner of Income Tax,  
 (Central-II), Mumbai having his office at  
 AayakarBhavan, M.K. Road, Mumbai 400 020.
9. Sudhir Mehta
10. Please seeRider 'C'

**THE HON'BLE JUDGE APPOINTED UNDER THE  
 SPECIAL COURT (TRIAL OF OFFENCES RELATING  
 TO TRANSACTIONS IN SECURITIES) ACT, 1992**

**Rider 'C'**

10. Standard Chartered Bank, (now owning and operating the business formerly known as ANZ Grindlays Bank Limited and later Standard Chartered Grindlays Bank), a company incorporated under the provisions of the laws of England and Wales and having its registered office at 1 Aldermanbury Square, London EC 2 V 7SB carrying on banking business in India and having one of its branches at 23-25, Mahatma Gandhi Road, Mumbai 400 001.

11. State Bank of India, a Corporation incorporated under the provisions of the State Bank of India Act, 1955 having its Local Head Office at State Bank Bhawan, Madam Cama Road, Fort, Mumbai 400 021

12. SBI Capital Markets Ltd., a company incorporated under the Companies Act, 1956 and having its registered office at 202, Maker Tower E, Cuffee Parade, Mumbai 400 005.

**Rider 'D'**

Respondent No.1, Mr. Harshad S. Mehta died at Mumbai on 31<sup>st</sup> December, 2001 leaving Respondent Nos. 1(a) to 1(c) as his legal heirs and representatives.

Respondent Nos. 1(a) to 1(c) now represent the estate of deceased Harshad S. Mehta.

**THE HUMBLE PEITITON OF  
THE PETITIONER ABOVE NAMED**

**MOST RESPECTFULLY SWEWETH:**

1. The Petitioner is the Custodian appointed under the provisions of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 (hereinafter referred to as the “**said Act**”).

2. The Respondent Nos. 1, 1abc to 7 & 9 are persons notified under the provisions of the said act and accordingly all properties belonging to the Respondent Nos. 1, 1abc to 7 & 9 stand statutorily and automatically attached. The same are to be disposed of under the provisions of the Section 11 of the said Act as per directions of this Hon’ble Court, interalia, for the purpose of payment of their creditors including the Income Tax Department. The claims of the Income Tax Department amount to over Rs.7,362 Crores. The claims of the Income Tax Department in respect of the Assessment Years 1992-93 and 1993-94 raised so far amount to over Rs.6,068.84 Crores including interest and Rs.2,362.04 Crores excluding interest. The claims against the said group as per the JPC and IDG reports amount to Rs.1,529.07 Crores and Rs.1,559.69 Crores respectively. In fact, in Misc. Application No.215 of 1993 filed by the said group, the group has admitted liabilities of Rs.572.04 Crores. The value of shares held on behalf of the Respondents has depreciated substantially. The said claims are in respect of the entire Harshad Mehta Group which includes Respondent Nos. 1, 1abc to 7 & 9 herein and other companies which are nothing but fronts of Harshad Mehta and his family members. The Petitioner craves leave to refer to and rely upon the numerous assessment orders passed by the Income Tax Department and the Petitions filed by

the Income Tax Department before this Hon'ble Court seeking release of monies from attached accounts in payment of the tax dues.

**Pl. see Rider 'C2'**

3. The Respondent No.8 is the Commissioner of Income Tax, who is concerned in the assessment of the Harshad Mehta Group.

4. The Petitioner further states that one Crest Hotels Ltd. had filed various Petitioners in this Hon'ble Court being Misc. Petition Nos. 109 to 115 of 1996 for the recovery of its dues from Respondent Nos. 1, 1 abc to 7 & 9 herein which in all aggregated to Rs.39.88 lakhs towards maintenance charges in respect of seven flats, Please see Rider 'B' (No.32A, 32B, 33, 34A, 34B, 44A and 45) in the building known as "Madhuli", situate at Annie Besant Road, Worli, Mumbai 400 018, which are occupied by four families and a group company of Harshad Mehta Group. The said maintenance charges pertained to the period commencing from July 1992 to September 1996. Despite making repeated promises, the Respondent Nos. 1, 1 abc to 7 & 9 had apparently failed and neglected to make payment of the said amounts. The said Petitions were, however, withdrawn by the Respondent No. 1, 1 abc on 4<sup>th</sup> May, 1998. The Petitioner is not aware whether the dues have been paid to M/s. Crest Hotels Ltd.

5. The Petitioner submits that the Respondent Nos. 1, 1 abc to 7 & 9 owe large sums of money not only to the Respondent No.8 herein, but also to various banks and financial institutions. The liability of the Respondent Nos. 1, 1 abc to 7 & 9 to bank and financial institutions which does not include any claim for interest is Rs.1,565.58 Crores as per the Joint Parliamentary Committee Report. Various Suits/Petitions have been filed in this Hon'ble Court against Respondent Nos. 1, 1

abc to 7 & 9 for recovery of large sums of money. The aggregate amount in the said Suits/Petitions exceeds Rs.1,964.55 crores. The details of the said Suits/Petitions are contained in the Schedule annexed hereto and marked as **Exhibit 'A'**.

6. The Petitioner further submits that the Respondent Nos. 1, 1 abc to 7 & 9 were notified by the Petitioner as they are found to be involved in offences relating to transactions in securities which interalia include siphoning large sums of monies from various banks and financial institutions.

7. The Petitioner states that monies are required to make payment to claimants under Section 11(2) of the said Act. The Respondent Nos. 1, 1 abc to 7 herein though being notified from 8<sup>th</sup> June, 1992 continued to occupy flats in the said building without apparently even making payment of the maintenance charges.

8. The Petitioner submits that the 4 families and a group company of the Harshad Mehta Group are residing in / occupying seven number of flats in the said building. They are in occupation of a 7456.35 sq. ft. area as per the details given by Crest Hotels Ltd. This does not include a large garden of about 5000 sq. ft. The details in respect of the said flats furnished by Crest Hotels Ltd. are annexed hereto and marked **Exhibit B**.

9. The Petitioner submits that the Respondent Nos. 1, 1 abc to 7 & 9 have been permitted under the judgment of the Hon'ble Supreme Court of India to carry on future business and earn future income subject to the same being declared to the Petitioner herein. The Respondent Nos. 1, 1 abc to 7 & 9 have apparently chosen not to do so even though these are media reports of SEBI investigations that Respondent No. 1 abc has been clandestinely active in the stock market and

instrumental in price rigging of some select companies in spite of the fact that BSE has forbidden his participation in the Stock Exchange.

10. Valvet Holding Pvt. Ltd., one of Harshad Mehta group companies, owns a building name 'Gopal Mansion' near Metro Cinema. 19 flats in the building remain vacant. Despite repeated attempts made by the Petitioner, the Petitioner has not been able to let out any flat in the said building.

11. The Petitioner submits that in view of the fact that continued maintenance charges have to be incurred on these flats and as monies are required for making payment to the Income Tax Department and other creditors of the Respondent Nos. 1 abc to 7 & 9, it would be just, fair and proper that this Hon'ble Court be pleased to pass necessary orders directing the notified persons to shift to an alternative accommodation if considered reasonable by this Hon'ble Court and for sale of the premises in the said building viz., 'Madhuli', which are owned by Respondent Nos. 1 abc to 7 & 9.

12. The Petition is verified by Mr. M.P. Purushu, who is an officer on Special Duty in the Petitioner's office and is conversant with the facts of the case and is able to depose to the same.

13. The Petitioner will rely on documents as per the list annexed hereto.

14. In the circumstances stated herein above, the Petitioner prays;

- a. that necessary orders be passed and appropriate directions as to public auction, publication of the public notice of sale in the prominent newspapers circulating in Bombay and costs to be incurred by the Custodian as incidental to and in respect of such sale be given by this



Hon'ble Court for sale of flat nos.32A, 32B, 33, 34A and 34B, 44A,  
44B and 45 in the building known as "Madhuli" situate at Annie  
Besant Road, Worli, Mumbai 400 018;

- b. for costs of the Petition;
- c. for such further reliefs as the nature and circumstances of the case may require.

Petition drawn by:  
Mr. Gaurav Joshi, Counsel,  
High Court, Bombay.

Petitioner

For PRAVIN MEHTA & MITHI & CO.,

Sd/-

(Partner)  
Advocates for the Petitioner.