ITEM NO.27 COURT NO.12 SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Miscellaneous Application No. 3299/2026 in SLP(C) No. 33989/2026

[Arising out of impugned final judgment and order dated 01-10-2026 in SLP(C) No. No. 33989/2026 passed by the Supreme Court of India]

ALAN CHUNG WAH TANG & ORS. Petitioner(s)

VERSUS

HDFC BANK LIMITED & ORS. Respondent(s)

FOR ADMISSION
IA No. 332186/2026 - CLARIFICATION/DIRECTION

Date : 16-11-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE K.V. VISWANATHAN
HON'BLE MR. JUSTICE ARUN PALLI

For Petitioner(s) **Mr. Yatin Oza, Sr. Adv.**
Mr. Mahesh Agarwal, Adv.
Mr. Rishi Agarwal, Adv.
Mr. Ankur Saigal, Adv.
Ms. Sukriti Bhatnagar, Adv.
Mr. Apurva Kapadia, Adv.
Mr. Girish Kedia, Adv.
Mr. Abhiraj Rajput, Adv.
Ms. Pramita Mishra, Adv.

Mr. E. C. Agrawala, AOR

Mr. Nachiketa Joshi, Sr. Adv.
Mr. Mohit Bidhuri, Adv.
Mr. Arvind Gupta, AOR
Mr. Sahil Panotra, Adv.
Mr. Ujjwal Mani Tripathi, Adv.
Mr. Raj Kumar, Adv.

Signature Not Verified
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VARSHA MENDIRATTA
Date: 2026.11.16
16:34:23 IST
Reason:

Respondent(s) **Mr. Shyam Divan, Sr. Adv.**
Mr. Aman Raj Gandhi, AOR
Mr. Sameer Panoti, Adv.
Ms. Sarrah Khambati, Adv.
Ms. Saloni Kumar, Adv.
Mr. Chaitanya Sharma, Adv.

UPON hearing the counsel the Court made the following

O R D E R

1. Heard Mr. Yatin Oza, learned Senior Counsel appearing for the applicant in Miscellaneous Application No. 3299 of 2026; Mr. Shyam Divan, learned Senior Counsel appearing for the respondent-HDFC Bank Limited, the original respondent in the Special Leave Petition; and Mr. Nachiketa Joshi, learned Senior Counsel appearing for the Bankruptcy Trustee, who was the petitioner in the original Special Leave Petition.

2. The present Miscellaneous Application has been filed seeking clarification of the order dated 01.10.2026 to the effect that the said order does not preclude the applicant from placing his case before the learned Mediator.

3. Further, it is prayed that a clarification be issued to the effect that the order dated 01.10.2026 does not preclude the continuation of Commercial Suit No. 157 of 2016.

4. The Special Leave Petition itself arose under the following circumstances:-

In a pending suit filed by the applicant/Respondent no.2, Mr. Bhupendra Jivrajbhai Surani, against the HDFC Bank, the Bankruptcy Trustee, Mr. Alan Chung Wah Tang, sought to be impleaded as a plaintiff on the ground that the plaintiff had been declared bankrupt and the assets, including the shares in question, had vested in the Bankruptcy Trustee.

We are not concerned with the other details of the suit for

the purpose of the present proceedings.

The HDFC Bank, which is the defendant in the suit, filed Notice of Motion No. 763 of 2019 along with Interim Application No. 4412 of 2026, seeking to restrain the Bankruptcy Trustee from proceeding with the proceedings in Action No. 473 of 2026 pending before the High Court of the Hong Kong, Special Administrative Region(SAR).

On 24.08.2026, the learned Single Judge of the High Court directed that the Bankruptcy Trustee and the authorized representative Mr. Vinod Kaushik, be restrained from proceeding with the Hong Kong Proceedings viz., Action No. 473 of 2026 before the High Court of Hong Kong(SAR).

Aggrieved by the order dated 24.08.2026, the Bankruptcy Trustee filed the Special Leave Petition(C)No.33989 of 2026 before this Court, contending that an order in the nature of an anti-suit injunction ought not to have been passed at the behest of HDFC Bank in the circumstances of the case.

When that Special Leave Petition came up for hearing on 01.10.2026, the only issue under consideration was whether the order dated 24.08.2026 passed by the learned Single Judge of the High Court in I.A.No.4412 of 2026 in Notice of Motion No. 763 of 2019 in Commercial Suit No. 157 of 2016, was justified or not.

The parties, who were at daggers drawn before us, were the Bankruptcy Trustee on the one hand and the HDFC bank on the other.

After hearing the parties for some time, we passed the following order and disposed of the Special Leave Petition on 01.10.2026:-

"1. Heard Mr. Santosh Paul, learned Senior Counsel for the petitioners and Mr. Shyam Divan, learned Senior Counsel appearing on caveat for contesting respondent-HDFC Bank Limited.
2. Having heard the submissions made by the learned Senior Counsel for the parties, we are of the opinion, that the contesting parties, namely, the petitioner(s) and HDFC Bank Limited, should sit together and mediate.
3. Parties have favourably responded to the suggestion of the Court that an attempt for an amicable resolution to the dispute be explored through the process of mediation.
4. We request to Hon'ble Justice Abhay S. Oka, Former Judge of this Court to act as a Mediator in this matter with the consent of both the parties. The learned Mediator make an attempt to amicably resolved the matter.
5. Parties to get in touch with the learned Mediator and appear on a date convenient to the learned Mediator.
6. The fees and other terms payable to the learned Mediator shall be fixed in consultation with the parties.
7. We are conscious that the proceedings are pending before the High Court of Judicature at Bombay and we notice that some applications are slated for hearing on 05.10.2026 before the High Court.
8. The learned Mediator may, as and when the report is ready, forwarded the same to the High Court in the pending proceedings. The interim arrangement made by the High Court shall continue till the mediation proceedings conclude.
9. Learned counsel for the petitioner(s) submits that the High Court proceeding may be stayed.
10. The pendency of mediation may be brought to the notice of the High Court.
11. The Special Leave Petition is disposed of in the above terms.
12. Pending application(s), if any, shall also stand disposed of."

5. As is clear from the order passed by this Court on 01.10.2026, we referred the matter to mediation before Hon'ble Mr. Justice

Abhay S.Oka, Former Judge of this Court, to mediate the dispute between the Bankruptcy Trustee and the HDFC Bank.

6. The present application has been filed by the plaintiff contending that he was not only the plaintiff in the suit but was also arrayed as respondent no.2 in the Special Leave Petition filed by the Bankruptcy Trustee and that he ought to have been heard before passing the order.

7. Mr. Yatin Oza, learned Senior Counsel, submits that notice was not issued to the respondent no.2 in the Special Leave Petition and the matter was disposed of by referring the Bankruptcy Trustee and the HDFC Bank to mediation.

8. On the other hand, Mr. Shyam Divan, learned Senior Counsel, contends that the applicant has no locus to maintain the Miscellaneous Application or to participate in the mediation.

9. The dispute between the Bankruptcy Trustee and the HDFC Bank was about the claim of HDFC Bank against the applicant herein, who stood as a guarantor for a loan, to secure which the shares had been pledged.

10. Mr. Divan, learned Senior Counsel, vehemently opposed the participation of the applicant in the mediation.

11. Mr. Nachiketa Joshi, learned Senior Counsel appearing for the Bankruptcy Trustee, submitted that once the Trustee had been appointed, the applicant had no locus standi in the suit.

12. We are not concerned with any of the above disputes inter se between the parties.

13. The narrow issue before us in the Special Leave Petition was about the correctness of the order dated 24.08.2026 passed by the

High Court of Judicature at Bombay. It was in those circumstances that HDFC Bank and the Bankruptcy Trustee were referred to mediation.

14. However, considering that the applicant, who is the plaintiff in the suit and was respondent no.2 in the Special Leave Petition, is desirous of participating in the mediation, we direct that the applicant shall have the liberty to participate in the mediation and place his case before the learned mediator.

15. Needless to say, this will not preclude the Bankruptcy Trustee and the HDFC Bank from entering into any agreement, if so advised.

16. Needless to further observe, the applicant is always at liberty to initiate such action or continue such proceedings, if maintainable in law, to secure his rights, if any.

17. We also notice that that the mediation has made significant progress. The learned mediator has already concluded two sittings.

18. Our order dated 01.10.2026 does not, in any manner, adjudicate on the existence or otherwise of any rights of the applicant herein.

19. Our order also does not discontinue the suit bearing Commercial Suit No. 157 of 2026. Hence, prayer B in the application is not tenable.

20. With the above observations, the present Miscellaneous Application stands disposed of.

21. Pending application(s), if any, shall stand disposed of.

(VARSHA MENDIRATTA)
ASTT. REGISTRAR-cum-PS

(AKSHAY KUMAR BHORIA)
COURT MASTER (NSH)