

Bombay HC mulls effect of SC's Shelf Drilling order as Sr. Adv. Mistry opposes Larger Bench reference

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In a high voltage hearing, Sr. Adv. Jehangir Mistry and ASG N. Venkataraman continue to trade arguments on whether [Bombay HC](#) judgment in Shelf Drilling ought to be referred to larger bench; Pivotal point for consideration before Bombay HC bench of Justice G.S. Kulkarni & Justice Somasekhar Sundaresan is the effect of the [Supreme Court order](#) in Shelf Drilling wherein the Apex Court in Revenue's SLP, directed that Shelf Drilling cannot be cited as a "precedent" in other cases; Sr. Adv. Mistry questions as to how can a judgment that cannot be cited as a precedent, be referred to larger bench in first place ? ; Mr. Mistry further submits that since he cannot show the Shelf Drilling judgment to HC, only two options are available to HC - either to take up the matter for final hearing, or admit this petition and continue the stay ; Bench remarks and poses to Mr. Mistry that he may be precluded from citing Shelf Drilling, but the Bench may still have to deal with it ... ; Bench quips " You can't show it but we can see it. " ; ASG N. Venkataraman strongly objects to Mr. Mistry's line of arguments and places three options before bench for consideration - 1. Reference to larger bench. 2. To take an independent view dehors Shelf Drilling. 3. Vacate stay in the current matter ; HC, that sat an hour early this morning to hear this case in PayPal's writ, will hear rest of Mr. Mistry's arguments tomorrow, when hearing is likely to conclude.