

## CLIENT ALERT

February 2023

### EXECUTIVE SUMMARY

The Supreme Court of India has clarified the law on pledging of dematerialized shares as security and has held that recording a pledgee of dematerialized shares as the “beneficial owner” of such pledged shares is not “actual sale” of the pledged shares by the pledgee for the purposes of the Contract Act and so does not constitute discharge of the debt to the extent of the value of the shares.

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***Supreme Court Clarifies the Law on Pledged Shares as Security in PTC India Financial Services Limited v. Venkateswarlu Kari & Ors.*<sup>1</sup>**

Under the provisions of the Depositories Act, when dematerialized shares are pledged to a lender as security for a loan, the depository is required to record or register the lender (pledgee) as “beneficial owner” of the pledged shares in its records. This is because, amongst other matters, the pledgee must be accorded the status of “beneficial owner” before he can proceed to sell the pledged dematerialized shares.

This recording, the Supreme Court has noted, is without prejudice to all contractual rights of pledgors and pledgees and the law of pledge, viz.:

- the rights of the pledgors of redemption of the pledged shares before a sale by the pledgee; and
- that a pledgee has only the special right in the goods pledged, namely, the right of possession as security and in case of default, he can bring a suit against the pledgor as well as sell the goods after giving a reasonable notice.

The Supreme Court has held that recording a pledgee of shares as the “beneficial owner” of such pledged shares for the purposes of the Depositories Act is not “actual sale” of the pledged shares by the pledgee as envisaged in the Contract Act.

Accordingly, where a lender has become the beneficial owner of shares which were pledged as security does not mean that the debt stands discharged.

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<sup>1</sup> MANU/SC/0629/2022.

*For a detailed analysis of this topic, you may email us at [delhi@jurislegal.org](mailto:delhi@jurislegal.org) or call us on +91 11 4359 3370.*

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