

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO. 1056 OF 2015  
WITH  
CRIMINAL APPLICATION NO. 1376 OF 2015**

Rakesh K. Patel,  
Residing at Flat No. 2/10,  
Maheshwar Darshan, S.V. Road,  
Santacruz (W), Mumbai - 400 054 ...Appellant

## Versus

1. The Additional District Deputy Collector, M.S.D. & Competent Authority under the MPID Act, 1999, Administrative Building, 9<sup>th</sup> Floor, Near Chetna College, Bandra (East), Mumbai - 400 051

2. Bhavana Ajay Thakkar,  
A-404, Sheetal Chhaya,  
77, S.V. Road, Malad (West),  
Mumbai - 400 064

- ### 3. The State of Maharashtra ...Respondents

AND

Chandravadan Harilal Mehta,  
B-301, Sheetal Chhaya,  
77, S.V. Road, Malad (W),  
Mumbai - 400 064

...Intervener Depositors

Mr. Mohite i/b Mr. Ashish S. Sawant for the Appellant

Mr. H. J. Dedia, A.P.P for the Respondents-State

Mr. Chandravadan Harilal Mehta, Intervener is present in-person

**CORAM : SMT. V. K. TAHILRAMANI &  
REVATI MOHITE DERE, JJ.  
TUESDAY, 28<sup>th</sup> FEBRUARY, 2017**

**ORDER (Per Revati Mohite Dere, J.) :**

1. By this appeal, the appellant has impugned the order dated 8<sup>th</sup> September, 2015 passed by the learned Special Judge, M.P.I.D. Act and Additional Sessions Judge, City Civil & Sessions Court, at Bombay, directing the appellant to deposit Rs. 1,95,000/- with simple interest at the rate of 18% per annum from 1<sup>st</sup> April, 2001. The learned Judge was pleased to direct the appellant to deposit the said amount within 60 days, failing which, the Competent Authority was directed to attach the property equivalent to the amount due as against the appellant.

2. The principal submission advanced by the learned Counsel for the appellant, is that the trial Court has not considered Section 8 of the Maharashtra Protection of Depositors (in Financial Establishments) Act, 1999 ('MPID'). He submitted that the learned Judge has not considered the fact, that only in

cases of malafide transfer by financial institutions, otherwise than in good faith and for consideration, the Special Court was competent to pass an order under Section 8 of the MPID Act. The learned Counsel in addition to the said submission, has also relied on certain Bills of Exchange, to show that the appellant and his family members had deposited certain amounts with the financial institution.

3. Mr. Chandravadan Harilal Mehta submits that no interference is warranted in the impugned order. He submitted that the learned Special Judge had rightly directed the appellant to deposit the sum of Rs. 1,95,000/- with simple interest at the rate of 18% per annum from 1<sup>st</sup> April, 2001.

4. Perused the papers. It appears that the principal submission with regard to Section 8 of the MPID Act, was not urged before the Special Judge and hence, the learned Judge has not dealt with the same. It also appears from Para 10 of the impugned order that no documents or Bills of Exchange were filed by the appellant, showing that any amounts were deposited

by him and his family members with the financial institution. Section 8 deals with attachment of property of malafide transferees and hence, the learned Special Judge would have to at least *prima facie* record his findings on the same.

5. In view of the aforesaid, we are of the opinion that the impugned order dated 8<sup>th</sup> September, 2015 ought to be quashed and set-aside and the matter be remitted back to the Special Judge for fresh consideration, in accordance with law.

6. Accordingly, the application, being Misc. Application No. 475 of 2004 is restored back to its original file. The learned Judge shall pass appropriate orders after hearing the parties. All contentions of the parties are kept open.

7. The learned Special Court shall decide the said application as expeditiously as possible and preferably within eight weeks from the date of receipt of the order.

8. Appeal is disposed of in the aforesaid terms.

9. In view of the above order, nothing survives for consideration in Application No. 1376 of 2015. The same stands disposed of.

**(REVATI MOHITE DERE, J.)**

**(V. K. TAHILRAMANI, J.)**