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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 936 OF 2018
IN
ANTICIPATORY BAIL APPLICATION NO.1906 OF 2016

Mr.Iqbal Abdul Karim Shaikh ..**Applicant**

In the matter between:
Mrs.Uzma Zakir Siddiquie ..**Applicant**
Vs.
The State of Maharashtra & Anr ..**Respondents**

Mr. Pravin U. Gaikwad for Applicant/Intervener.
Mr. Jay Kumar Bhandary a/w Ms. Priya Darshani Arora for applicant in ABA 1906/2018.
Mr. P.D. Gharat, Special P.P a/w Ms. Rutuja Ambekar, APP for State.

CORAM : A.S.GADKARI, J.
DATE : 14th August 2018.

P.C.:

1] This is an application for intervention and for direction to the Investigating Agency to release the immovable property of the applicant-Mr. Iqbal Shaikh namely shop No.4 in E and E-2 Wing, situated at Mount Kailash Co-Operative Housing Society Ltd., Belasis Road, Mumbai-400 008 [for short 'suit property'] attached by it.

2] Heard the learned counsel appearing for the applicant/Intervener, the learned counsel for the applicant in A.B.A.

No.1906 of 2016 and the learned Special P.P for State. Perused the record.

3] The applicant Mr.Iqbal Shaikh is the sole owner of the property namely shop No.4 in E and E-2 Wing, situated at Mount Kailash Co-Operative Housing Society Ltd., Belasis Road, Mumbai-400 008. The applicant Iqbal Shaikh entered into an agreement for sale dated 13.7.2016 with the Mrs. Uzma Siddiquie (accused/applicant in A.B.A.No.1906/2016) for a total consideration of Rs.6,02,00,000/- (Rupees Six Crores and Two Lakhs Only). That at the time of entering into the said agreement, the purchaser namely Mrs. Uzma Siddiquie paid an amount of Rs.42,05,000/- (Rupees Forty Two Lakhs and Five Thousand Only) as a token money to the applicant. The said agreement is duly registered with the Office of the Sub-Registrar of Assurances by making payment of Rs.30,40,000/- (Rupees Thirty Lakhs and Forty Thousand Only). The said payment is made by the applicant Mr. Iqbal Shaikh from and out of the token amount received by him from Mrs. Uzma Siddiquie leaving behind a balance of Rs.11,65,000/-. As per the said agreement for sale, Mrs. Uzma Siddiquie was supposed to make full and final payment by 12th August 2016 to the applicant-Iqbal Shaikh. However, she failed to make the balance payment and therefore the applicant Mr. Iqbal Shaikh by a duly registered Deed of Cancellation dated

7.4.2017 cancelleld the Agreement dated 13.7.2016.

It is the contention of the applicant Mr. Iqbal Shaikh that, he on behalf of said Mrs. Uzma Siddiquie also paid an amount of Rs.18,50,000/- (Rupees Eighteen Lakhs and Fifty Thousand Only) to her Advocate.

4] In this background, the applicant Mrs. Uzma Siddiquie made a statement on 19th January 2018 before this Court that she is having immovable property at Mumbai Central, Mumbai i.e. suit property standing in her own name and despite intimating the said fact to the Investigating Agency, the said property is not seized by it till that date. In view of the statement made by Mrs. Uzma Siddiquie, the suit property, namely shop No.4 in E and E-2 Wing, situated at Mount Kailash Co-Operative Housing Society Ltd., Belasis Road, Mumbai-400 008 is attached by the Investigating Agency.

5] It is thus apparent that, Mrs. Uzma Siddiquie on 19.1.2018 made palpably false statement and did not disclose to this Court the correct facts that, she had only made token payment towards purchase of the suit property and the said suit property was never conveyed in her name as an absolute owner.

Indubitably due to the said false statement made by Mrs. Uzma

Siddiquie, it caused undue prejudice, hardship and irreparable loss to the applicant Mr. Iqbal Shaikh.

6] After taking into consideration the entire record available before this Court, it appears that the applicant Mr. Iqbal Shaikh has no direct and/or indirect role to play in the present crime and it is only on the basis of totally erroneous, lesser to say false statement, made by the applicant Mrs. Uzma Siddiquie, the said suit property was attached by the Investigating Agency. It is further to be noted here that, it is on the basis of representation made by Mrs. Uzma Siddiquie, the applicant Mr. Iqbal Shaikh had agreed to sell his immovable property (suit property) and accordingly the agreement dated 13.7.2016 was executed.

7] In view of the above, the Investigating Officer/Investigating Agency of the CR No.57 of 2016 registered with Economic Offences Wing, Unit-VII, Mumbai is hereby directed to release the said suit property i.e. Shop No.4 in E and E-2 Wing, situated at Mount Kailash Co-Operative Housing Society Ltd., Belasis Road, Mumbai-400 008 in favour of the present applicant Mr. Iqbal Shaikh forthwith after receipt of present Order and without any demur. The Investigating Officer is directed to effect panchanama in that behalf while handing over the possession of the said suit property to applicant Mr. Iqbal Shaikh.

8] At this stage, Mr. Gharat, the learned Special P.P submitted that an amount of Rs.42,05,000/- paid by Smt. Uzma Siddiquie to the applicant Mr. Iqbal Shaikh may be directed to be deposited with the Investigating Agency, as it is the proceeds of crime.

As noted hereinabove, the applicant Mr. Iqbal Shaikh has paid an amount of Rs.30,40,000/- towards the stamp duty and registration charges to the Competent Authority and the said amount is ultimately deposited with the Government Exchequer. The Investigating Officer is at liberty to get/recover the said amount from the concerned Authority, if permissible in law, by adopting appropriate procedure to that effect. However, the applicant Mr. Iqbal Shaikh is directed to deposit the balance amount of Rs.11,65,000/- with the Investigating Officer/Investigating Agency within a period of two weeks from the release of his suit property by the Investigating Officer/Investigating Agency, without seeking further extension thereof.

9] Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)

Anil Chandrakant Dond

Digitally signed by Anil Chandrakant Dond
Date: 2018.09.05 18:17:42 +0530