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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1199 OF 2018

M/s. Vedehi Synthetics Limited] ..Appellant

v.

The State of Maharashtra & Ors.] ..Respondents

Mr.Pravin Uttam Gaikwad for the Appellant.

Ms.Rebecca Gonsalves, SPP for the State.

Mr.K.Suryakrishnamurty, Competent Authority present.

API Pawar and API Kedar Dighe from the EOW present.

**CORAM : INDRAJIT MAHANTY &
A.M. BADAR, JJ.**

DATE : 25th MARCH, 2019.

P.C.

1] Heard learned counsel for the respective parties.

2] In the present Appeal, challenge has been made to an order passed by the learned Special Court for MPID, dismissing Miscellaneous Application No.417 of 2015 (erroneously typed as 2016 in the body of the Appeal), arising out of MPID Case No.1 of 2014.

3] The learned counsel appearing for the Appellant submitted that the prosecution have filed Miscellaneous Application No.1050 of 2018 alongwith a supporting Affidavit in MPID Special Case No.1 of 2014 seeking

declaring attachment made by them to be made absolute. The learned counsel submits that liberty may be granted to the Appellant to seek intervention in the said application and to raise its claims before the MPID Court.

4] The learned SPP submits that Miscellaneous Application No.417 of 2015 at the behest of the present Appellant was based on misconception of fact. In this respect, our attention was drawn to the prayer made by the Appellant in para (16-a) which reads thus :

“This Hon'ble Court be pleased to direct the Respondent No.1 to lift the attachment order dated 29.01.2014 in respect of Unit No.639 situated on land admeasuring 1207 sq. yards i.e. 1009 sq. mts. situated on land bearing Survey No.220, 221, 221/2 at Village Sanand, Tal. Sanand, District Ahmedabad and further permit the Applicant to deal with the same as they deem fit and proper.

5] The learned SPP further drew out attention to the averments made by the prosecution in affidavit-in-reply in Para 14 which reads thus :

“I say that Exh.74 attached at Exhibit 'G' to the Appeal under reply does not concern the property in question in the present Appeal i.e. Unit No.639 on land admeasuring 1009 sq. metres bearing Survey No.220, 221, 221/2 at Village Sanand, Tal. Sanand, District Ahmedabad. Exh.74 was an application cum affidavit filed in MPID Case No.1/2014 by the then Competent Authority Ajit Panditrao Sakhare on 7/11/2015 for making the attachments made by the Government of Maharashtra via the Notification No.MPI 2014/ CR 541/Pol 11 dated 22/6/2015 absolute. The Government of Maharashtra has not attached the property being Unit No.639 on land asmeasuring 1207 sq. yards i.e. 1009 sq. metres bearing Survey No.220, 221, 221/2 at Village Sanand, Tal. Sanand, District Ahmedabad vide the Notification No.MPI 2014/CR 541/Pol 11 dated 22/6/2015. Exh.74 annexed at Exh.G to the Appeal under reply has nothing to do with the present matter.”

6] After hearing learned counsel for the respective parties, we agree with the submissions advanced by the learned SPP that Miscellaneous Application No.417 of 2015 itself was based on misconception of fact for two reasons. Firstly, there was no order of attachment dated 29th January, 2014 as mentioned in the prayer and that there was merely a letter issued by the Economic Offences Wing and not any order of attachment. Apart from that, as noted in para 14 of the counter affidavit filed by the State, the land in question was not the subject matter of attachment under Exhibit 74.

7] In view of the above fact, we are of the considered view that Miscellaneous Application No.417 of 2015 filed by the Appellant, itself was wholly misconceived. However, taking into consideration the fact that the property attached are now under consideration for being made absolute in Miscellaneous Application No.1050 of 2018 and the MPID Court is in the process of adjudicating the said application, we dispose off the present Appeal on a finding that Miscellaneous Application No.417 of 2015 filed before the MPID Court by the present Appellant was misconceived and hence the order does not need any interference.

8] However, we grant liberty to the Appellant, if so advised, to file an appropriate application before the MPID Court for consideration of its claims over any property which has been attached by the State. We make it clear that the MPID Court shall adjudicate application, if any, which may be filed by the Appellant regarding its claims and proceed with the matter in accordance with law. Accordingly, Appeal No.1199 of 2018 stands disposed off.

(A.M. BADAR, J)

(INDRAJIT MAHANTY, J)