

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.763 OF 2019

VAIBHAV DATTARAM MANTRI AND ANR.)...APPELLANTS

V/s.

THE STATE OF MAHARASHTRA & ORS.)...RESPONDENTS

WITH

CRIMINAL APPEAL NO.1486 OF 2018

VASUDHA BHIKAJI BHARATI AND ORS.)...APPELLANTS

V/s.

THE STATE OF MAHARASHTRA & ORS.)...RESPONDENTS

WITH

CRIMINAL APPEAL NO.1538 OF 2018

JYOTI VASANT BADHA AND ANR.)...APPELLANTS

V/s.

THE STATE OF MAHARASHTRA & ORS.)...RESPONDENTS

WITH

CRIMINAL APPEAL NO.1528 OF 2018

LATA RAJARAM JAGDALE AND ORS.)...APPELLANTS

V/s.

THE STATE OF MAHARASHTRA & ORS.)...RESPONDENTS

WITH

CRIMINAL APPEAL NO.1523 OF 2018

MAHESH CHANDRAKANT GAWADE & ORS.)...APPELLANTS

V/s.

THE STATE OF MAHARASHTRA & ORS.)...RESPONDENTS

WITH

CRIMINAL APPEAL NO.1536 OF 2018

PARAG MUNGALE AND OTHERS)...APPELLANTS

V/s.

THE STATE OF MAHARASHTRA & ORS.)...RESPONDENTS

WITH

CRIMINAL APPEAL NO.1537 OF 2018

AJIT B. SHIRODKAR)...APPELLANT

V/s.

THE STATE OF MAHARASHTRA & ORS.)...RESPONDENTS

WITH

CRIMINAL APPEAL NO.207 OF 2019

DAYANAND N. NAIK AND ORS.)...APPELLANTS

V/s.

THE STATE OF MAHARASHTRA & ORS.)...RESPONDENTS

WITH

CRIMINAL APPEAL NO.208 OF 2019

SURENDRA MARUTI RANE)...APPELLANT

V/s.

THE STATE OF MAHARASHTRA & ORS.)...RESPONDENTS

WITH

CRIMINAL APPEAL NO.12 OF 2019

VISHNU VISHWANATH KARMARKAR)...APPELLANT

V/s.

THE STATE OF MAHARASHTRA & ORS.)...RESPONDENTS

WITH

CRIMINAL APPEAL NO.514 OF 2019

GANPATI G. BHATTE)...APPELLANT

V/s.

THE STATE OF MAHARASHTRA & ORS.)...RESPONDENTS

WITH

CRIMINAL APPEAL NO.664 OF 2019

SUNIL SHANTARAM KAMATH AND ANR.)...APPELLANTS

V/s.

THE STATE OF MAHARASHTRA & ORS.)...RESPONDENTS

WITH

CRIMINAL APPEAL (STAMP) NO.157 OF 2019

SUCHETA SUNIL KARNIK AND ORS.)...APPELLANTS

V/s.

THE STATE OF MAHARASHTRA & ORS.)...RESPONDENTS

WITH

CRIMINAL APPEAL NO.580 OF 2019

KUMUDINI DATTATRAY SANT)...APPELLANT

V/s.

SUBHASH KARKHANIS AND OTHERS)...RESPONDENTS

WITH

CRIMINAL APPEAL NO.606 OF 2019

MITA VIJAY WALA)...APPELLANT

V/s.

THE STATE OF MAHARASHTRA & ORS.)...RESPONDENTS

Mr.Shirish Gupte, Senior Counsel i/b. Mr.Rajput Karansingh,
Advocate for the Appellant in Criminal Appeal No.1486 of 2018.

Mr.Rajput Karansingh, Advocate for the Appellant in Criminal
Appeal Nos.207/2019, 208/2019, 608/2019, 1523/2018,
1528/2018, 1536/2018, 1537/2018.

Mr.Chaitanya Pendse i/b. Ms.Siddhi Bhosale, Advocate for the Appellant in Criminal Appeal No.514 of 2019.

Mr.Subodh Desai a/w. Ms.Jayshri Surve, Advocate for the Appellant in Criminal Appeal No.664 of 2019.

Mr.Dinesh Parmar i/b. DSR Legal, Advocate for the Appellant in Criminal Appeal (Stamp) No.157 of 2019.

Mr.Rajput Karansingh a/w. Mr.Hrishikesh Ambre, Advocate for the Appellant in Criminal Appeal No.763 of 2019.

Mr.Rajiv Patil, Senior Advocate a/w. Mr.Ameiya Tamhane i/b. Ms.Sangita Salvi, Advocate for the Appellant in Criminal Appeal No.12 of 2019.

Mr.Mayur Faria, Advocate for the Appellant in Criminal Appeal No.580 of 2019.

Mr.Sandeep Karnik, Advocate for the Respondent No.3 in all matters except in Criminal Appeal Nos.514 of 2019 and 580 of 2019.

Mr.Sandeep Karnik, Advocate for the Respondent No.4 in Criminal Appeal No.514 of 2019 and for Respondent No.1 in Criminal Appeal No.580 of 2019.

Mrs.S.V.Sonawane, APP for the Respondent - State.

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

DATE : 18th JULY 2019

P.C. :

1 Heard the learned counsel for the respective parties in this batch of appeals filed under Section 11 of the Maharashtra Protection of Interest of Depositors Act (hereinafter referred to as MPID Act). In these appeals, orders dated 26th October 2018 passed in Miscellaneous Application Nos.840 of 2018, 841 of 2018 and 842 of 2018 arising out of MPID Case No.5 of 2001 have come to be challenged. In this batch of applications, it appears from the impugned order, that these three applications were filed by the applicant-accused/respondent no.3. Directions were issued by the Designated court inter alia allowing the said applications and directing respondent no.2 (Competent Authority) with the assistance of respondent no.1 i.e. the State of Maharashtra, EOW, Unit VII, to take physical possession of rented premises from various tenants/purchasers of tenanted rights/premises locked.

2 At the very outset, senior learned advocate appearing for the appellants submitted that the impugned orders cannot be sustained in view of the fact that the respondent no.3/applicant-

accused had filed such an application did not possess the necessary “locus standi” and further without making the appellants herein (tenants), who are necessary parties, parties in the application before the Designated court. On perusal of the impugned order and on query to the learned counsel appearing for the respondent no.3/applicant-accused, he fairly admitted that the present appellants were necessary parties, since directions had been sought in the said applications for their removal and for recovery of possession of the tenanted premises from them.

3 After hearing the learned counsel for the respective parties, without entering into the merits of the other contentions placed, we are prima facie satisfied that the present batch of applications, at the behest of respondent no.3/applicant-accused ought not to have been entertained by the Designated court, for the simple reason that necessary parties against whom directions had been sought had not been impleaded in the said applications. We are constrained to record our concern as to how the Designated court proceeded to pass the impugned order, without

ensuring that the parties who were likely to be adversely impacted, upon the directions sought for being issued.

4 Accordingly, we have no hesitation in setting aside the impugned orders on the ground that the applicant(accused) had failed to implead necessary parties in his application before the Designated court. Consequently, we set aside the order dated 26th October 2018.

5 We, further, grant liberty to the respondent no.3, if he is so advised, to initiate appropriate proceedings by making all necessary parties, party to such proceedings, but at the same time, leave open the issues raised by the appellants herein, questioning the locus standi of the applicant-accused/respondent no.3 for initiating such a proceeding.

6 Before parting, we hereby direct that the order of the Designated court relating to deposit of rent with the Economic Offences Wing (EOW) and/or other directions must be adhered to and complied by the applicant-accused/respondent no.3.

7 We further direct that by various interim orders passed from time to time, this court had directed continuation of possession in the hands of the appellants subject to deposit of rent with the Economic Offences Wing. We observe that those directions shall continue subject to any modification that may be made by the Designated court from time to time, if such circumstance arise.

8 In terms of the aforesaid directions, all appeals stand disposed. With disposal of these appeals, all pending applications also stand disposed off.

(A. M. BADAR, J.)

(INDRAJIT MAHANTY, J.)