

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL WRIT PETITION NO.1961 OF 2019
WITH
CRIMINAL APPLICATION NO.987 OF 2022**

Nivrati Nagnath Khalangre

...PETITIONER

VERSUS

The State of Maharashtra
and others.

...RESPONDENTS

...
Mr.R.D. Biradar Advocate for Petitioner.
Mr.M.M. Nerlikar, A.P.P. for Respondent Nos.1, 5 and 8.
...

WITH

CRIMINAL WRIT PETITION NO.1503 OF 2021

Bapurao S/o Madhavrao Ugile
and another

...PETITIONERS

VERSUS

The State of Maharashtra
and others.

...RESPONDENTS

...
Mr.R.D. Biradar Advocate for Petitioners.
Mr.M.M. Nerlikar, A.P.P. for Respondent Nos.1 and 5.
...

**CORAM: SMT. VIBHA KANKANWADI AND
RAJESH S. PATIL, JJ.**

DATE : 12th SEPTEMBER, 2022

ORDER :

1. In Criminal Writ Petition No.1961 of 2019 prayers of the petitioner are thus:-

"A) The Criminal Writ Petition may kindly be allowed.

B) Kindly be directed to Respondent No.5 and 8 authorities to initiate proper investigation as per the FIR dated 17/05/2018 bearing FIR No.116/2018 registered with Shivaji Nagar Police Station Latur by appointing special investigation team.

C) Kindly be directed to seize the immovable property of Respondent No.2 to 4, 6 and 7 situated at 1) Murbad Taluka at MHADA Village in Thane district having 145 plots & total area that land is 1,34,60,000 mtrs. 2) Jawali, Tq. Mahabaleshwar, Dist-Satara. G. No.1/A-i.e. 6 H 36 R near about 15 acres and 09 gunthas and 3) Gut No.84/6 purchased 4 gunthas land, in Vemgale, Tq. Mahabaleshwar, Dist-Satara 4) 3 H 21 Gunthas in Gut No.63/73, 5) Gut No.63/84 area 3 H 50 R and 13 Sq. mtrs. 6) in Gut No.46/5/10B/11 i.e. 47 Gunthas and 55 Sq. Mtrs. Respondent No. 2 to 4, 6 and 7 group of companies and thereafter to take steps for repayment the amount invested by the petitioner as well as thousands of investors, by auction the above mentioned properties of Phenomenal Group of companies by issuing writ of mandamus or any other appropriate writs."

2. In Criminal Writ Petition No.1503 of 2021 the prayers of the petitioners are thus:-

"A) The Criminal Writ Petition may kindly be allowed.

B) Kindly be directed to Respondent No.5 authorities to initiate proper investigation as per the representation dated 22/04/2019 & 22/09/2021.

C) The petitioners are praying not to release on bail to the Respondent No.6 except depositing/paying the amount of invested by petitioners and list annexed with this petition.

D) The petitioners praying to seize the immovable property of Respondent No.2 to 4, 6 and 7 situated at 1) Murbad Taluka at MHADA Village in Thane district having 145 plots & total area that land is 1,34,60,000 mtrs. 2) Jawali, Tq. Mahabaleshwar, Dist-Satara. G. No.1/A-i.e. 6 H 36 R near about 15 acres and 09 gunthas and 3) Gut No.84/6 purchased 4 gunthas land, in Vemgale, Tq. Mahabaleshwar, Dist-Satara 4) 3 H 21 Gunthas in Gut No.63/73, 5) Gut No.63/84 area 3 H 50 R and 13 Sq. mtrs. 6) in Gut No.46/5/10B/11 i.e. 47 Gunthas and 55 Sq. Mtrs. Respondent No. 2 to 4, 6 and 7 group of companies and thereafter to take steps for repayment the amount invested by the petitioners as well as list annexed with the Petition, by auction the above mentioned properties of Phenomenal Group of companies by issuing writ of mandamus or any other appropriate writs."

3. Thus, it appears that more or less, prayers in both the Petitions are similar.

4. Since the investigation appears to be complete in respect of some aspects and the charge-sheet has also been filed, the prayer clause "B" in both the Criminal Writ Petitions, as regards initiation of proper investigation and appointing special investigation team, has rather become infructuous.

5. So far as prayer clause "C" in Criminal Writ Petition No.1961 of 2019 and prayer clause "D" in Criminal Writ Petition No.1503 of 2021 are concerned, which are similar in nature, it is to be noted that in Criminal Writ Petition No.1961 of 2019 affidavit has been filed on behalf of the State. One Chitambar Shankar Kathewad, Police Inspector, Economic Offence Wing, Latur has submitted that the proposal has been sent to the competent authority for taking permission after the properties having freezed as per the provisions of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (for short "MPID Act") and, therefore, no further action needs to be taken in respect of part of the said prayer clauses. However, so far as the second limb of prayer clauses regarding direction for taking steps for repayment of amount by putting the properties freezed in auction is concerned, it is to be noted that yet the order from the competent authority has not come and in MPID Act itself there is provision and the concerned

Court can consider the prayer that would be made at the appropriate stage for sale of the property and distribution of the amount. This Court need not wait for the said competent authority to pass the order in view of the fact that already there is a statutory provision in MPID Act which can be agitated by the petitioners before the concerned Court.

6. Liberty is given to the petitioners to move the concerned Court after the competent authority passes order and if such application is made, the MPID Court to decide it on its merits.

7. With these directions, both the Criminal Writ Petitions stand disposed of.

8. Criminal Application No.987 of 2022 also stands disposed of.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE