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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7969 OF 2021**

K R Malik & Anr

...Petitioners

Versus

State of Maharashtra & Ors

...Respondents

**Mr Shanay Shah, with Harish Khedkar & Neha Sonawane & Yash Kullarwar, i/b Vis Legis Law Practice, for the Petitioners.
Mr AB Kadam, AGP, for Respondent No.1-State.**

**CORAM G.S. Patel &
 Madhav J. Jamdar, JJ.
DATED: 21st March 2022**

PC:-

1. Rule.

2. There is an Affidavit in Reply from Respondents Nos. 3 to 5. Notice was issued to the other Respondents and we directed fresh service on 14th January 2022. Earlier we have granted protective relief on 25th November 2021. We can make Rule returnable forthwith and take up the Petition for final disposal.

3. The short challenge in this Petition is to the refusal by Respondents Nos. 3 to 5 to register certain transfer documents in

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relation to immovable properties. Prayers (a), (b), (c) and (d) in the Petition read thus:

“(a) This Hon’ble Court be pleased to issue a writ of Mandamus and/or any other writ, order or direction in the nature of Mandamus against Respondent Nos. 4 and 5, thereby directing them not to act contrary to the provisions of the Registration Act 1908, and to perform their duties in accordance with the same;

(b) This Hon’ble Court be pleased to issue a writ of Mandamus and/or any other writ, order or direction in the nature of Mandamus against Respondent No.7, thereby directing them not to act contrary to the provisions of Interest of Depositor’s (in Financial Institution) Act, 1999 and to perform their duties in accordance with the same;

(c) That this Hon’ble Court be pleased to order and declare that the Impugned Letters dated 27.05.2021 and 05.06.2021 (Exhibits B, C and A hereto) along with the Impugned Actions of Respondent Nos.4, 5 and 7 violates Articles 14, 19(1) (g) and 21 of the Constitution of India and are in derogation of the principles of natural justice and are accordingly illegal, non-est, void in law and liable to be set aside;

(d) Strictly without prejudice to the above and in the alternative, this Hon’ble Court be pleased to direct Respondent Nos. 4 and 5 to grant an opportunity to the Petitioner of a personal hearing and thereafter, pass appropriate speaking orders on basis of the representation by the Petitioners, on such terms and conditions as this Hon’ble Court may deem fit and proper;”

4. The facts are not contentious. According to the Petitioners, many of their real estate projects suffered a downturn after 2016.

Several police complaints were filed against the Petitioners although the Petitioners were trying to settle the claims being made against them. The police authorities seem to have invoked the provisions of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (“MPID Act”).

5. The Petitioners have entered into a number of agreements in regard to land in and around Pune District. Nine such are mentioned in a table in paragraph 6. The details are also annexed at page 65. It appears that when the Petitioners attempted to register the various agreements for sale, Respondents Nos. 3 to 5 declined to do so on the basis that they had received letters dated 27th May 2021 and 5th June 2021 from Respondent No.7, the Crime Branch, alleging that certain criminal complaints had been lodged against the Petitioners including under the MPID Act.

6. The Affidavit in Reply by the registering authorities states that in fact such a request was received from the Crime Branch and that the registering authorities acted on them.

7. It is clear from the record that there is no notification under Section 4 of the MPID Act. None of the properties in question have been attached under the MPID Act or any other law or under any order of any Court or Tribunal. There are merely these communications from the Crime Branch.

8. We do not believe that the Crime Branch is entitled to hold up compulsory registration of documents relating property transfer in

this fashion and to do indefinitely. Section 17 of the Registration Act makes registration compulsory for documents transferring or creating interest in land.

9. The ongoing refusal by Respondents Nos. 3 to 5 is based only on the request of the Crime Branch. Their Affidavit makes it clear that they have no other cause to withhold the registration. Accordingly, we make Rule absolute.

10. However, we will need to mould the relief. We direct Respondents Nos. 3 to 5 to complete the registration of all documents submitted by the Petitioners, the registration of which was withheld by the impugned communications dated 27th May 2021 and 5th June 2021.

11. Lastly, we make it clear that if the Crime Branch intends to halt the registration of any documents, it can do so only in a manner contemplated by law and not otherwise.

12. The Petition is disposed of in these terms. No costs.

(Madhav J. Jamdar, J)

(G. S. Patel, J)