



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 654 OF 2023

1 Sakib Rasheed Maskati
Age 63, Occupation : Business
Residing at Maskati Villa
Windy Hall Lane, Colaba
Mumbai-400 005

2 Mark Joseph Selwyn
Age : 62 Occupation : Business
Residing at 3, Prince Court
Mereweather Road
Mumbai-400 001

Appellants

Versus

1 M/s. Parasrampuriah Plantations Ltd.
Having office at Regent Chambers
10th floor, 208, Nariman Point
Mumbai 400 021

2. State of Maharashtra

Respondents

Mr. Niranjana Mundargi a/w. Ms. Shyamli Hajela on behalf of M/s. H
and M Legal Associates for the Appellants.

Mr. Prashant Parsurampuriah a/w. Mr. Aalam Parsurampuriah i/b. Mr.
Prashant Parsurampuriah for Respondent No. 1.

Mr. V. B. Konde Deshmukh, APP for the Respondent No. 2 – State.
Mr. Jayant Gadekar -PI, EOW, Unit 8.

CORAM: REVATI MOHITE DERE &
GAURI GODSE, JJ.

DATE: 1st SEPTEMBER 2023

ORAL JUDGMENT (Per : Gauri Godse, J.) :

1. Heard. Admit. By consent of the parties, the appeal is taken up for final disposal.
2. This appeal is preferred under section 11 of The Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (“**the MPID Act**”) to challenge the common judgment and order dated 3rd April 2023 passed by the MPID Court in Miscellaneous Application Nos. 1129 of 2020 and 1130 of 2020 in MA No. 106 of 2006 in MPID Special Case No. 16 of 2005, only to the extent, it direct the appellants to deposit the interest amount.
3. By the impugned judgment and order, the MPID Court has partly allowed the said Miscellaneous Applications filed by the

appellants for the release of their property being old Gat No. 628 (New Gat No. 377) and old Gat No. 599 Hissa no. 1 (new Ghat No.392 Hissa no. 1) at village Awas, Alibag, Raigad (“said property”) from attachment, subject to the appellants depositing an amount of Rs.5,13,750/- each along with interest @ 18% p.a. from 26th August 1994 till deposit of the said amount in the court.

4. The learned counsel appearing for the appellants submitted that pursuant to the said impugned order, the appellants have already deposited the amount with interest. Learned counsel further submitted that by the present appeal, the appellants are challenging only the direction against the appellants to pay interest @ 18% pa and further praying for a refund of the interest component aggregating to Rs.53,09,332/- (Rs.26,54,666/- each) already deposited by the appellants.

5. For considering the submissions made on behalf of the appellants, it is necessary to note the following admitted facts :

- The appellants are not arraigned as accused in the MPID proceedings.
- One Mr. Gopal Hari Joglekar was the original owner of various landed properties, including the said property.
- Respondent no. 1 is an accused in the aforesaid MPID proceedings.
- Respondent no. 1 had entered into an unregistered agreement for sale with the original owner Mr. Gopal Hari Joglekar, and others on 26th August 1994 for purchasing the said property. However, the said agreement was never specifically performed, and the earnest amount paid by respondent no. 1 pursuant to the unregistered agreement stood forfeited.
- Mr. Deepak Ambaprasad Mathur purchased various properties, including the said property, from the heirs and legal representatives of the original owner, Gopal Hari Joglekar, vide sale deed dated 7th May 1997 registered on 7th April 1998.

- Appellants, by separate sale deeds dated 27th June 2006, purchased the said property from Mr. Deepak Ambaprasad Mathur.

- 7th December 2006, the Special MPID court passed an order in Miscellaneous Application No. 106 of 2006 filed by respondent no. 1 in Special MPID Case No. 16 of 2005 and issued directions for attachment of the properties mentioned in the schedule of the application filed by respondent no. 1, which included the said property. The said order dated 7th December 2006 was passed without hearing the appellants.

- In and around the year 2020, the appellants learnt about the said ex-parte order dated 7th December 2006. Hence, they preferred the aforesaid two Miscellaneous Applications nos. 1129 of 2020 and 1130 of 2020, thereby praying for vacating the prohibitory orders passed on 7th

December 2006 with respect to the said property. Thus, the appellants prayed for releasing the said property from the purview of the order dated 7th December 2006.

6. By a common judgment and order impugned in the present appeal, the aforesaid Miscellaneous Applications are allowed subject to the condition directing the appellants to deposit an amount of Rs. 5,13,750/ each along with interest @ 18% p.a. from 26th August 1994 till deposit of the said amount in the court. The date of 26th August 1994 is the date of the agreement for sale entered into by respondent no. 1 with the original owner of the said property.

7. Learned counsel for the appellants, by referring to the aforesaid admitted facts, submitted that only because respondent no. 1 claimed to have entered into an agreement for sale with respect to the said property, the Special MPID Court had ordered attachment of the properties on an application made by the respondent no. 1. Learned counsel for the appellants further

submitted that admittedly neither the appellants nor the original owners of the said property are accused in the MPID proceedings. It is only at the behest of respondent no. 1, who is arraigned as accused in the MPID proceedings, that the said property was ordered to be attached.

8. Learned counsel for the appellants submitted that the appellants are bonafide purchasers of the said property and that neither the appellants nor the original owners are in any way concerned about the MPID proceeding. In spite of the aforesaid admitted facts, learned MPID Court has directed to pay interest on the principal amount sought to be secured from the date of the agreement of sale entered into by respondent no. 1 with the original owner.

9. Learned counsel submitted that the amount sought to be secured is the alleged amount paid by respondent no. 1 to the original owners. He submitted that so far as depositing the amount allegedly paid by respondent no. 1 to the original owners

is concerned, the appellants have shown their willingness and deposited the said amount; however, they are aggrieved by the further direction of depositing of the interest amount.

10. Learned counsel submitted that by the present appeal, the impugned judgment and order is challenged only to the limited extent it directs the appellants to pay the interest amount. He submitted that pursuant to the impugned order, the appellants have, under protest deposited the principal amount of Rs. 10,27,500/- and interest of Rs.53,09,332/-. Learned counsel submitted that in view of the aforesaid facts and circumstances, a direction to the appellants to deposit the interest amount is unreasonable and unfair, and hence, the appellants are entitled to a refund of the interest amount.

11. Learned counsel appearing for respondent no. 1 (accused in MPID proceeding) does not dispute the aforesaid facts. He submitted that respondent no. 1 has no objection if the interest amount is refunded to the appellants, as prayed.

12. Learned APP also does not dispute the aforesaid facts. The learned APP submitted that only on an application filed by respondent no.1, the said property belonging to the appellants were attached. The learned APP submitted that the said property is not the subject matter of the notification issued under the MPID Act.

13. In view of the aforesaid admitted facts and circumstances, we do not see any reason for the learned Judge to direct the appellants to pay the interest amount. The appellants have filed present appeal to the limited extent of challenging the impugned order directing them to pay the interest amount and have further prayed for a refund of the interest amount already deposited by them. In view of the aforesaid, we do not see any reason to direct the appellants to pay the interest amount as directed by the impugned judgment and order. In view of the aforesaid admitted facts, coupled with the fact, that the said property is not the subject matter of the notification under the said MPID Act, the

appellants are entitled to seek a refund of the interest amount as prayed in the present appeal.

14. Considering the aforesaid admitted facts and for the reasons recorded above, the appeal is allowed in terms of prayer clause (a) and (b) which reads as under:

“(a) That this Hon’ble court be pleased to quash and set aside the impugned order dated 3 April 2023 passed in MA Nos. 1129/2020 and 1130/2020 in MA No. 106/2006 in MPID Special Case No. 16/2005, to the limited extent that it directs the Appellants to pay interest @ 18% per annum from 26.08.1994 till date of deposit;

(b) That this Hon’ble Court be pleased to direct the MPID Court to refund to the appellants the interest component aggregating to Rs.53,09,332/- (Rs.26,54,666/- each) being the 18% interest per annum on Rs.10,27,500/- from 26.08.1994 already deposited by the Appellants with the Hon’ble Sessions Court and/or direct the

Registrar, Sessions Court, Mumbai to refund the same to the Appellants”.

All concerned to act on the authenticated copy of this order.

GAURI GODSE, J.

REVATI MOHITE DERE, J.