



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 4062 OF 2023
IN
CRIMINAL APPEAL NO. 1127 OF 2018**

Ved Prakash Arya

residing at Bungalow No. 21/22,
Rashmi Park, Waliv Vasai(East)
Dist. Palghar – 401 of 208

...Applicant

Versus

1. State of Maharashtra

(at the instance of Economic
Offences Wing, Unit-VII,
Crime Branch, Mumbai).

2. The Commissioner,

Konkan Division, Konkan
Bhavan, CBD Belapur,
Navi Mumbai – 400 614

And

Old Secretariat,
Near City Civil and Sessions
Court, Mumbai – 400 032.

3. The Collector,

Mumbai Suburban District,
10th Floor, Administrative
Building, Banra (East),
Mumbai – 400 051.

**4. The Competent Authority
and Sub Divisional Officer,**

Mumbai Suburban District,
9th Floor, Administrative
Building, Bandra (East),
Mumbai – 400 051.

5. Shri. Mandar Dandekar,
Senior Clerk, Office of the
Competent Authority, 9th Floor,
Administrative Building,
Bandra (East), Mumbai – 400 051

....Respondents

Mr. Subhash Jha a/w Mr. Ritesh Kesarwani a/w Mr. Krunal Jadhav a/w
P. Venkatraman i/b Law Global for the applicant
Mrs. P. P. Shinde, APP for the State

**CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.**

CLOSED FOR ORDERS: 6th DECEMBER 2023

PRONOUNCED ON: 15th DECEMBER 2023

ORDER: (PER: GAURI GODSE, J.)

1. This application is filed in a disposed of appeal for seeking various reliefs. Criminal Appeal No. 1127 of 2018 filed by Hotel Avion Private Ltd is dismissed by Judgment and Order dated 14th July 2023. The present applicant was not a party to the said appeal. Respondent No. 3 in the aforesaid appeal was M/s. Arya Lusters shown as represented through its agent Mr. Ved Prakash Arya i.e.

present applicant.

2. Considering the nature of various prayers made in the present application, the learned counsel for the applicant was called upon to make submissions on the maintainability of the application. Learned APP submitted that similar prayers have already been made by the applicant before the MPID Court by way of filing Misc. Application No. 1336 of 2023, which is still pending. Learned APP submitted that after the aforesaid appeal was dismissed, a sale certificate is already issued in the name of M/s. Arya Lusters- Respondent No. 3 in the aforesaid appeal and the same is annexed by the applicant on page 112 of the present application. Learned APP thus submitted that the application is not maintainable. She submitted that even M/s. Arya Lusters- Respondent No. 3 in the aforesaid appeal is not made a party to the application.

3. In response to the preliminary objection raised, learned counsel for the applicant submitted that except for prayer clause (a) of the present application, none of the other prayers are made before the

Trial Court. He further submitted that the prayers that are made in the present application are day in and day out made in this Court. Hence, the application is maintainable. He made various submissions on the merits of the aforesaid appeal, which has already been disposed of. Learned counsel for the applicant was unable to point out as to how the prayers made in the application can be entertained in the disposed of appeal, which was filed under Section 11 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 ("MPID Act").

4. We have perused the prayers made in the application. Prayers are for seeking direction to the competent authority to issue a sale certificate in the applicant's name and seeking various other directions regarding the amounts claimed to have been deposited by the applicant before the Trial Court. The applicant has also prayed to initiate contempt proceedings against respondent no. 3-The Collector, respondent no. 4-The Competent Authority and Sub Divisional Officer and respondent no. 5-Senior Clerk, under the Contempt of Courts Act. The applicant has further prayed for directing investigation by the

Central Bureau of Investigation and/or State CID and/or other investigating agencies for conducting an investigation into the alleged delay in issuing a sale certificate in the name of the applicant. The applicant has also prayed to take action against respondent nos. 4 and 5 on the administrative side for allegedly prolonging and protracting the issuance of a sale certificate in the applicant's name.

5. So far as prayer clause (a) for issuance of a sale certificate in the applicant's name is concerned, the same is substantive new relief sought by the applicant who was not a party to the aforesaid appeal. Hence, there is no question of dealing with the said prayer in a disposed of appeal. So far as prayer clause (b) is concerned, the same is with respect to the amounts allegedly deposited by the applicant claiming to be the highest bidder. Hence, we cannot examine the same in an application filed in a disposed of appeal. So far as prayer clause (c) is concerned, the same is a vague prayer for initiating contempt proceedings against the respondent nos. 3, 4 and 5 without alleging any breach of any specific order passed by this Court in the aforesaid appeal.

6. So far as prayer clauses (d) and (e) are concerned, the same are seeking directions for investigation which do not fall within the scope of Section 11 of the MPID Act. So far as prayer clause (f) is concerned, the same is for seeking directions for passing orders on the administrative side, which again is beyond the scope and ambit of Section 11 of the MPID Act.

7. Learned counsel for the applicant does not dispute that Misc. Application No. 1336 of 2023, filed by the applicant, is still pending before the MPID Court. Learned counsel for the applicant also does not dispute that the applicant was not a party to the aforesaid appeals. He has no explanation for not adding all the parties in the Appeal as parties in the application. He could not point out any provision for entertaining the application on behalf of the present applicant for the reliefs sought in the application filed in a disposed of Criminal Appeal.

8. For the reasons recorded above, in our view, the application is not maintainable and is misconceived.

9. It is made clear that we have not examined the application on

merits and hence, all contentions of all the parties are kept open. It is open for the applicant to seek appropriate relief by adopting appropriate proceeding before the appropriate Forum.

10. Hence, the application is dismissed as not maintainable.

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

GAURI GODSE, J.

REVATI MOHITE DERE, J.