

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 847 OF 2024

NSEL Investors Action Group .. Appellant

Versus

State Of Maharashtra And Ors. .. Respondent

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Mr. Piyush Raheja a/w Mr. Akash Jain, Mr. Aakash Mehta i/b Mansukhlal Hiralal & Co., for the Appellant.

Mr. Avinash B. Avhad, Special P.P. a/w Mr. Ghule Sahil Satyavan, Mr. D. J. Haldankar, A.P.P., for the State/ Respondent.

Mr. Arvind Lakhawat a/w Mr. Vrushabh Vig, Mr. Vikrant Nalavade i/b M/s. Crawford Bayley & Co., for Respondent No.3.

Mr. Manish Tule, API, EOW and Mr. Dawari, CA Office, are present.

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CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 12th NOVEMBER, 2024

P.C:-

1. On hearing Mr. Raheja, the learned counsel for the Appellant who has assailed the impugned orders passed by the MPID Court thereby rejecting the Application filed by the Intervenor (the investors) being aggrieved by the order dated

24.04.2024, as well as Mr. Avhad, representing the State and Competent Authority and Mr. Lakhawat representing the Respondent No.3, three points deserve determination in the proceedings ;

(a) The scope of the Section 7(5) of the MPID Act, which has incorporated the summary procedure as contemplated under Order 37 of the Civil Procedure Code, upon which cause being shown before the Designated Court and it is desirous for investigating the same in background of the legal position prevailing the statues incorporated by the incorporation,

(b) Whether any notices are received by the Respondent No.3, the promoter of the financial establishments and whether the notices are received in Form No.4 as an accompaniment to Order 37 or under Form No.4-A, contemplating summons for Judgment in a Summary Suit,

(c) What is the normal procedure that is adopted by the MPID Court, when it is called upon to investigate the cause shown or an objection raised under Section 7, in normal parameters.

2. In the wake of the rival contentions advanced, it is necessary to ascertain as to from what stage of the proceedings under Section 7, the incorporated provision of Order 37 of the C.P.C. shall step in as it is the argument of Mr. Lakhawat that a notice/summons in a summary Judgment under Form No.4 issued under Sub-Section 1 of Section 7 would at the most be equivalent to a notice whereas, according to Mr. Raheja this is a notice which would be equivalent to summons for Judgment in a Summary Suit i.e. in form No.4A

as according to him, there is no scope for issuance of a notice and causing an appearance since in the MPID proceedings, it is only upon the cause being shown, the procedure under Order 37 of the CPC for the purpose of investigation is to be followed by the Designated Court.

We expect the respected counsel to throw more light on this aspect.

Re-notify to 28.11.2024 at 2.30 p.m.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)