



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

31 CRIMINAL WRIT PETITION NO. 643 OF 2025

1. Ausha w/o Sureshchandra Nelge
Age: 39 years, Occu: Service,
R/o. Kharat Aadgaon, Tq. Majalgaon,
Dist: Beed

2. Sureshchandra s/o Sudhakar Nelga
Age: 44 Years, Occu: Service,
R/o. Kharat Aadgaon,
Tq. Majalgaon, Dist: Beed

... PETITIONERS

VERSUS

1. The State of Maharashtra
Through its Secretary, Home Department,
Government of Maharashtra,
Mumbai – 32

2. The Superintendent of Police,
Superintendent of Police Office,
Beed, Tq. & Dist. Beed

3. The Sub Inspector,
Economic Wing Beed,
Tq. & Dist. Beed

4. The Sub Registrar,
Sub Registrar Office, Majalgaon,
Tq. Majalgaon, Dist: Beed

... RESPONDENTS

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Mr. M. P. Kale h/f Mr. S. S. Solanke, Advocate for Petitioners
Mr. S. R. Wakale, APP for Respondent No.1 – State

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**CORAM : SANDIPKUMAR C. MORE AND
Y. G. KHOBRAGADE, JJ.**

DATE : December 22, 2025

ORAL JUDGMENT (Per: Sandipkumar C. More, J.) :-

1. Rule. Rule made returnable forthwith. Heard finally with the consent of both the parties at the admission stage.
2. The petitioners are seeking declaration that the communications cum orders dated 29.07.2024 and 04.02.2025 passed by respondent No.3 in violation of principle of natural justice and Article 14 of the Constitution of India and those communications be quashed and set aside.
3. On going through the communication dated 29.07.2024, the Investigating Officer i.e. Police Sub Inspector (EW), Beed, issued letter to Sub-Registrar, Majalgaon for not to register the sale-deeds in respect of the properties of the petitioner No.2 who is made accused in C.R. No.270 of 2024, for the offence under Section 420 and 409 of I.P.C. and Sections 3, 4 of the Maharashtra Protection of Interest of Depositors (in financial establishments) (M.P.I.D.) Act. Similarly, by

way of communication dated 04.02.2025, the Investigating Officer has issued similar directions in respect of property of petitioner No.2.

4. The learned counsel for the petitioner submits that such direction cannot be issued as the powers to issue such directions are only with State and not with the concerned Investigating Officer as per Section 4 of the M.P.I.D. Act. He also placed reliance on the judgment of the coordinate Bench of this Court in ***Criminal Writ Petition No.231 of 2025 (Vijaykumar alias Vijay S/o Sitaram Dandanaik Vs. The State of Maharashtra)***, dated 16.09.2025. On going through the said judgment, it is evident that in other similar matter this Court had already taken a view that powers to issue such communication cannot be exercised by the Investigating Officer by considering the scope of Section 4 of the M.P.I.D. Act and various other judgments of this Court as well as Hon'ble Apex Court.

5. The core issues for determination considered by this Court in the said judgment, are reproduced herein below:

(i) Whether the Investigating Officer under the scheme of M.P.I.D. Act and the Code of Criminal Procedure, 1973 (for short "Cr.P.C."), has the power to unilaterally freeze or attach immovable properties by writing a letter to the Sub-Registrar or Land Revenue Authorities?

(ii) Whether the impugned order passed without giving any notice and without following the procedure prescribed by section 4 of the M.P.I.D. Act, violates the principles of natural justice and is liable to be quashed?

6. Further, this Court has also observed as follows:-

“Thus, this Court has held that the Investigating Officer cannot assume the statutory powers of the Government or the designated Court by directly issuing orders or directions to the Sub Registrar asking them to attach or freeze the properties by making an endorsement in the land records. In present case Section 4 of the M.P.I.D Act does not provide any such legislative mandate to the Investigating Officer to attach the landed properties of the accused persons involved in M.P.I.D Act by writing a letter to the Sub-Registrars of the Land Revenue.

10. The record also reveals that the impugned order has been passed without giving any notice to the petitioner and record also reveals that the petitioner was never heard or called upon before any such letter was to be issued to the Sub-Registrar of the Land Records. Thus, the action taken without notice or providing opportunity of hearing and furthermore in this regard to the judicial orders granting bail and recording full satisfaction of security for the depositors claims. The impugned order is bad in law. It is trite law that no person can be deprived of property saved by Authority of Law and in conformity with principles of natural justice as guaranteed under Article 300 A of the Constitution of India. The settled principle of law which underscores that even statutory powers of attachment must be exercised with due process and cannot overwrite constitutional protection to property without fair opportunity of being heard.”

7. It has been ultimately held in the said judgment that the Investigating Officer cannot issue such communication as challenged

in this petition. Therefore, the issue involved in this matter is covered by the aforesaid judgment. Thus, we pass the following order:-

ORDER

- (i) The present Criminal Writ Petition is allowed in terms of prayer clauses [A] and [B] and the impugned communications cum orders date 29.07.2024 and 04.02.2025, passed by respondent No.3 stand quashed and set aside.
- (ii) Rule is made absolute, accordingly.
- (iii) It is made clear that this order will not preclude the Competent Authority or State Government from taking any action strictly in accordance with the provisions of the M.P.I.D. Act and upon obtaining the appropriate order from the designated Court if such action is warranted in law.

[Y. G. KHOBRADE, J.]

[SANDIPKUMAR C. MORE, J.]

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