

Salgaonkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO.875 OF 2025**

Expat Engineering India Ltd. ..
 through its Autorised Representative
 Amith Kumar

Appellant

Versus

The State of Maharashtra

.. Respondent

...

Mr.Parth Sanghrajka with Ms.Esha Rane for the Appellant.

Ms.Sangeeta D. Shinde, Addl.P.P. for the State/Respondent.

Mr.Jagdish Panhale, Police Inspector, attached to E.O.W., Unit
 8, Mumbai, present.

**CORAM: BHARATI DANGRE &
 SHYAM C. CHANDAK, JJ.**

DATE : 11th NOVEMBER, 2025

...

P.C:-

1. The Appeal filed by the Appellant, the financial establishment, which faces the accusation under Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (for short, "**MPID Act**") seek recall of the order dated 05/04/2024, passed by the Designated Court under the Act, on Misc. Application No.1444 of 2022 filed by it, seeking return of the property, described as 'Non-Agricultural Land (NA Land) situated at Gat No.410 totally admeasuring about 'Sector 04-21 Area', 'Hector 02-00 Area', i.e. (5 Acres), situated at Village Urawade, Taluka Mulshi, District-Pune.

As the application came to be rejected on it being seriously contested by the prosecution as well as the intervenors, Mr.Rajiv Khosla & Ors. (investors), the present Appeal is filed.

2. The learned counsel for the Appellant would invite our attention to Section 4 notification, which do not include the subject property and he would then invite our attention to the communication issued to the Tahsildar, Taluka Mulshi, District Pune on 30/10/2021, in form of a proposal for attachment of certain properties, which include the subject property at item No.75, its lawful owner (nominee) being described as 'Expat Engineering India Ltd.'. It is, however, his specific contention that despite this proposal being forwarded, till date there is no notification issued under Section 4 of the MPID Act, covering the said property or directing its attachment for realisation of the dues to the investors.

3. It is in these circumstances, the application has been moved by the Applicant before the Special Court, by stating that the said property belong to the sister concern of the Applicant and it continue to be in possession of the property since 22/01/2007, but M/s Expat Projects and Development Pvt. Ltd., which was arraigned as an accused in C.R. No.31 of 2020 is a distinct entity from Expat Engineering India Ltd. and, therefore, the subject property, in absence of notification, could not be attached, apart from the fact that even if the property was notified under Section 4 notification, the Applicant was entitled to raise an objection under Section 7

and the Designated Court was duty bound to consider the said objection before it made the attachment absolute.

However, by pointing out that the order dated 05/04/2024 failed to take into consideration the most relevant aspect, being that there is no notification governing the said property, issued under Section 4 of the MPID Act and, therefore, there cannot be any attachment of the property or vesting of the same in the competent authority, and this has been completely ignored though it was specifically urged before the Special Judge.

4. When we perused the impugned order, we find substance in the submission advanced by the learned counsel, that this point was specifically raised, but it appears that the Court was swayed away by the objections raised by the A.P.P. as well as the counsel for the intervenors that the actual number of the investors of the accused company are yet to be ascertained and till date more than 7000 investors were added. It was pointed out to the Court that one notification published on 15/09/2022 covering landed property admeasuring 2510 Acres to officers and some bank accounts and another communication is done in respect of remaining secured landed property admeasuring 1756 Acres and publication of the notification is in pipeline.

Admittedly, though there is a proposal in regards the subject property, the learned Additional Public Prosecutor, on instructions of Police Inspector Mr.Jagdish Panhale, make a categorical statement that the proposal is still pending and no notification based upon the said proposal is yet issued by the Government.

5. In the wake of the aforesaid statement coming from the Investigating Officer, E.O.W., since no notification under Section 4 is yet issued governing the said property, there was no question of it being subjected to any attachment and, therefore, the application made by the applicant seeking its return and its rejection is erroneous, and the Court was swayed by the fact that so many investors are awaiting their returns and it is necessary for the Investigating Officer to attach all and every possible property of the company as well as of its Directors, Promoters etc.

In any case, in absence of the procedure having been followed and since the very necessary ingredient of attachment of property, being the notification published under Section 4 of the Act and the procedure that is prescribed under the MPID Act to be followed before the attachment is made absolute. Admittedly the property belonging to the Applicant could not have been attached.

In any case, since the subject property of the impugned order is not subjected to attachment, there is no requirement of the property being released from the list of the attached property.

The impugned order dated 05/04/2024, therefore, cannot be sustained and the same is quashed and set aside.

As a consequence of the aforesaid, the Appeal is allowed and the property which was the subject matter of the application, till it is subjected to notification under Section 4 of the MPID Act, shall be treated as, 'not being attached'.

(SHYAM C. CHANDAK, J.)

(BHARATI DANGRE, J.)