

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1070 OF 2024

Sarita Prashant Boorugu	]	
Age:- 44 years,	]	
W/o. Mr. Prashant Boorugu	]	
Villa No.85, Adarsh Palm Retreat,	]	
Devarabeeshanalli, Outer Ring Road,	]	
Sarjapur Road, Varthur Post,	]	
Bangalore – 560103	]	... Appellant

V/s.

- | | | | |
|----|--|---|-----------------|
| 1. | State of Maharashtra |] | |
| | (Vide Economic Offences |] | |
| | Wing, Unit-V, Mumbai) |] | |
| 2. | Competent Authority |] | |
| | (Appointed under MPID Act, 1999) |] | ... Respondents |
| 3. | National Spot Exchange Ltd. |] | |
| | Having office at Malkani Chambers |] | |
| | 1 st Floor, Off. Nehru Road, Near |] | |
| | Hotel Orchid, Vile Parle (East), |] | |
| | Mumbai - 400 099 |] | ... Intervenor |

**WITH
INTERIM APPLICATION NO. 3581 OF 2024
IN
CRIMINAL APPEAL NO. 1070 OF 2024**

Sarita Prashant Boorugu	]
Age:- 44 years,	]

	W/o. Mr. Prashant Boorugu	]	
	Villa No.85, Adarsh Palm Retreat,	]	
	Devarabeesanhalli, Outer Ring Road,	]	
	Sarjapur Road, Varthur Post,	]	
	Bangalore – 560103	]	... Applicant
	V/s.		
1.	State of Maharashtra	]	
	(Vide Economic Offences	]	
	Wing, Unit-V, Mumbai)	]	
2.	Competent Authority	]	
	(Appointed under MPID Act, 1999)	]	... Respondents
3.	National Spot Exchange Ltd.	]	
	Having office at Malkani Chambers	]	
	1 st Floor, Off. Nehru Road, Near	]	
	Hotel Orchid, Vile Parle (East),	]	
	Mumbai - 400 099	]	... Intervenor

Mr. Subodh Desai, senior Advocate a/w Mr. Anuj Jhaveri, Mr. Aditya Sawant and Mr. Mihir Modi i/b Mr. Anuj Jhaveri for Appellant/Applicant.

Ms. Rebecca Gonsalves, Special P.P. a/w Mr. Vinod Chate, A.P.P. for Respondent Nos. 1 and 2-State.

Mr. Arvind Lakhawat a/w Mr. Nimeet Sharma i/b MZM Legal LLP for Respondent No.3.

**CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.**

DATE : 7th July 2025.

JUDGMENT : (PER : A.S. Gadkari, J.) :-

1) By this Appeal under Section 11 of the the Maharashtra

Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (for short 'MPID Act'), the Appellant has impugned Order dated 19th April 2023, passed below Exh.129 in MPID Special Case No. 1 of 2014, by the learned Special Court (MPID), Greater Bombay, allowing the said Application filed by the competent Authority and permitted it to auction the property mentioned in the Schedule of the said exhibit.

2) Heard, Mr. Desai, learned senior counsel for the Appellant, Ms. Gonsalves, learned Special Public Prosecutor for Respondent Nos. 1 and 2 and Mr. Lakhawat, learned counsel for Respondent No.3. Perused entire record produced before us.

3) Mr. Desai, learned senior counsel appearing for the Appellant submitted that, before passing the said Order and making an attachment absolute, the Appellant was not given an opportunity of being heard. That, the Rule of *audi alteram partem* has not been adhered to by the competent Authority, which is a State functionary and therefore the said attachment needs to be set aside.

4) Ms. Gonsalves, learned Special Public Prosecutor appearing for competent Authority fairly pointed out the fact that, in para No. 11 of Affidavit dated 17th January 2025, the competent Authority has admitted the fact that, there is no information on record regarding service of notice of Exh.129 on the Appellant. It be noted here that, at our request, Ms. Gonsalves has personally verified the entire record and today, she made a

very fair statement that, the Appellant was not served with the notice of Exh.129 before passing the final Order.

5) The properties of the Appellant are mentioned at serial Nos.3, 4 and 10 in the Schedule annexed to the Notification dated 17th March 2016 i.e. Exh.129. Present Appeal pertains to the said three properties only. Though, the impugned Order dated 19th April 2023 is passed with respect to various other properties also, the challenge in the present Appeal is restricted only to the said three properties mentioned at serial Nos.3, 4 and 10 only.

5.1) As the Appellant was not put on notice and was not granted an opportunity of being heard before confirming the attachment while passing Order below Exh.129, we set aside the impugned Order dated 19th April 2023, *qua* the Appellant only.

5.2) The said Exh.129 *qua* the Appellant is restored to the file of learned trial Court.

6) We direct the learned Judge of the trial Court to grant an opportunity of being heard to the Advocate for the Appellant before passing any Order on Exh.129. It is brought to our notice that, after passing of the said Order and after confirming the attachment, the competent Authority has already auctioned the two properties mentioned at serial Nos. 3 and 4 and therefore it is necessary for the trial Court to give notice to the prospective purchasers or the purchasers who are purchased the property before passing final Order.

7) According to us, it is now the duty of the competent Authority to give notice to the concerned parties of restoration of the said Exh.129 to the file of the Special Court (MPID), Greater Bombay and place on record true and correct facts before the trial Court.

7.1) As a result of the above, the impugned Order dated 19th April 2023 is set aside, *qua* the Appellant and her properties at serial Nos. 3, 4 and 10 are concerned.

8) Appeal is allowed in the aforesaid terms.

9) In view of disposal of Appeal, Interim Application No. 3581 of 2024, does not survive and is accordingly disposed off.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)