

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 158 OF 2025

Shivaji Estate Live Stock And Farm Pvt. Ltd.

... Appellant

Versus

State Of Maharashtra And Ors.

... Respondents

.....

Mr. Shyam Dewani a/w. Mr. Nikhilesh Pote and Mr. Sachit Makhija and Ms. Mihika Joshi, Advocates for the Appellant.

Ms. Anuja Gotad, APP for the State.

Mr. Ravi Kadam, Advocate for Respondent No.2

API – Ughade-EOW, present.

Mr. Mahadeo Kirwale, Deputy Collector present.

CORAM : SHIVKUMAR DIGE, J.

DATED : 24th JUNE, 2025.

P C. :

1. By this appeal, the appellant has challenged the order passed by the learned Sessions Judge, Mumbai.

2. By the impugned order, the learned Judge has allowed the application cum objection under Section 7(3) of Maharashtra Protection of Interest of Depositors (Financial Establishment) Act, 1999 (for short “MPID Act”) filed by the respondent No.2 and has released the attached property situated at Ghadikhel, Tal. Baramati.

3. It is contention of learned counsel for appellant that appellant is the company and the appellant had purchased the landed property situated at Ghadikhel, Tal. Baramati, Dist. Pune for the consideration of Rs.56,000/- from the respondent No.2 in the year 1998. Out of said consideration amount, Rs.52,000/- was paid by cheque and remaining Rs.4,000/- was also subsequently paid by cash. Learned counsel further submitted that the said agreement to sale was registered in Sub-Registrar office by paying necessary stamp duty. Due to allegations against the appellant -company, the said property was attached by respondent No.1- State in the year 2005 by Notification dated 27.04.2005. Learned counsel further submitted that the appellant had filed application before the learned Sessions Court for plea bargaining stating that the appellant is ready to repay the amount to depositors from the sale of all attached properties. The said application was rejected by learned Sessions Court, it was challenged before this Court and this Court has quashed and set aside the said order and remanded back the matter to the learned Sessions Court to reconsider the plea, pleaded by the appellant of plea bargaining. Thereafter, the respondent No.2 filed an application under Section 7(3) of MPID Act for release of the above-referred property on the ground that he is the owner of the property. Considering the submissions of all parties, the learned Sessions Court has passed impugned order, which is erroneous. Learned counsel further

submits that the appellant has paid the entire consideration amount of said property. It is attached by the Government by Notification, then the learned Sessions Court should not have passed the impugned order of releasing said property, hence, requested to allow the appeal.

4. It is contention of learned APP that the said property is attached by the Government by Notification in the year 2005, since then the said property is in possession of the Government. The Trial Court should not have passed the impugned order. It is necessary to protect the interest of the depositors, hence requested to pass appropriate order.

5. It is contention of learned counsel for the respondent No.2 that the respondent No.2 is owner of the said property. He has not received full consideration of the suit property. There is no registered sale deed in respect of the suit property executed in favour of the appellant. The appellant failed to register the sale deed, hence, the respondent No.2 made paper publication in the year 2008. Thereafter, he filed a suit before C.J.S.D. at Baramati for declaration that agreement to sale executed between the respondent No.2 and the appellant is null and void. The said suit is decreed, so the agreement to sale has been canceled. The respondent No.2 has deposited Rs.52,000/- as directed before the C.J.S.D. Learned counsel further submitted that as the agreement to sale between the appellant and the respondent No.2 is cancelled, the appellant cannot

be considered as a owner of the suit property. The learned Sessions Court has considered all these facts and has passed well reasoned order. No interference is required in it and requested to dismiss the appeal.

He relied on :

- (i) *P. Palanisamy and Anr. Vs. District Revenue Officer cum Competent Authority and Ors. (2023 SCC OnLine Mad. 6270);*
- (ii) *National Spot Exchange Limited Vs. Union of India and Ors. (2025 SCC OnLine SC 1137).*

6. I have heard all learned counsel. Perused impugned Order passed by the learned Sessions Court. While passing the order, learned Sessions Court has observed that the Judgment and decree dated 08.03.2021 passed by the learned Civil Judge, Senior Division in R.C.S. 235 of 2013, is not acceptable for the simple reason that the provisions of MPID Act have overriding effect and after attachment of the property under Section 4 of MPID Act, only designated Court under MPID Act is having jurisdiction under Section 7 of MPID Act to deal the issue of attachment. Thereafter, considering the reasons, the learned Sessions Judge has observed that the respondent No.2 is entitled for release of attached property on the condition to deposit Rs.56,000/- in compliance of Section 9 of MPID Act and accordingly he has passed the impugned order.

I am unable to understand the observations of the learned Sessions Judge, that the agreement to sale between the appellant and the

respondent No.2 was executed in the year 1998. The said agreement was registered before the Sub-Registrar's Office by paying requisite stamp duty. Out of total consideration, Rs.52,000/- was paid to the respondent No.2 by cheque by the appellant. Thereafter the Government had issued Notification for attachment of the said property in the year 2005. After notification, the respondent No.2. did not object and thereafter in the year 2013, the respondent No.2 filed Civil Suit for cancellation of the agreement to sale and that suit was decreed ex-parte without hearing the appellant. The respondent No.2 must have suppressed the fact of attachment of said property and has obtained ex-parte order. The suit before C.J.S.D. was filed after eight years of attachment of the suit property. When entire consideration amount was paid to the respondent No.2, it cannot be said that there was violation of terms and conditions of agreement to sale but these facts are not considered by the learned Sessions Court and in-haste, has passed the impugned order of releasing the said property which is erroneous. I have gone through the case laws cited by the learned counsel for the respondent No.2, the facts of cited case and present case are different, hence not applicable. In view of above, I pass following order.

ORDER

- (i) The appeal is allowed.

- (ii) The impugned order dated 13.01.2025 below Exh.1-M passed by the learned Sessions Judge, Mumbai is quashed and set aside.

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signed by
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KILAJE
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(SHIVKUMAR DIGE, J.)