

Salgaonkar

MANDIRA MILIND
SALGAONKAR

Digitally signed by MANDIRA
SALGAONKAR
Date: 2025.11.13 11:17:57 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.876 OF 2025

Expat Projects and Developments ..
Private Limited through its
Autorised Representative Amith
Kumar Appellant

Versus

The State of Maharashtra & Anr. .. Respondents

...

Ms.Sonal V. Parab with Mr.Parth Sanghrajka and 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. Pursuant to the registration of the FIRs invoking provisions of Sections 406, 420 read with Section 34 of the Indian Penal Code (for short, “**IPC**”) and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (for short, “**MPID Act**”), on 15th September, 2022, a notification was published under Section 4 of MPID Act, upon a conclusion being drawn that M/s Expat Projects and Developments Private Limited, accepted deposits

with assured returns, but there was failure to live up to the commitment and the Government was of the opinion that the financial establishment as well as its office bearers, including the Chairman and Directors are not likely to return the amount back, the competent officer was appointed and by invoking power under sub-section (1) of Section 4 of the MPID Act, the properties belonging to the financial establishment as well as of the Chairman, Directors and Promoters came to be attached, the details of which were set out in the schedule appended thereto, including the immovable as well as the movable properties.

2. The competent authority, during the course of the proceedings being continued under the provisions of the MPID Act, moved an application under Section 5(3) read with Section 7 of the MPID Act to make the properties notified as per the notification published under Section 4 of the MPID Act absolute and seeking further direction to permit sale of the said properties. The application was accompanied by an affidavit as required under Section 5(3), which was also accompanied with the notification issued under Section 4 of the MPID Act. The application, being moved on 10th December, 2024, sought permission to direct steps to be taken under Section 7 of the MPID Act before the notification is made absolute.

3. The application filed by the competent authority was taken up for consideration by the Designated Court on the very next day i.e. on 11th December, 2024, when the Court passed

the following order:-

“Order below application filed by SPP under Section-7 of MPID Act on 10/12/2024.

All the properties enlisted in notification dated 15/03/2022 is made absolute.

SPP filed application for auction of properties. Taken on record. **Order-The two immovable properties described in notification under Section 4 of MPID Act at Sr.no.1 and 2 (Pune and Mumbai) be valued and auctioned as per prevalent rules and sale proceeds be distributed amongst depositor/investors equitably and proportionately.”**

4. On hearing the learned counsel for the Appellant and on perusal of the impugned order, in light of the scheme contained in the MPID Act, it is evidently clear that the competent authority sought permission to take steps under Section 7, before the attachments as set out in Section 4 notification, are made absolute, but on the very next day, the learned Judge made the attachment enlisted in notification dated 15th March, 2022 absolute and also considered the application for auction of properties and allowed the same.

Evidently, the process adopted by the Special Judge is clearly contradictory to the procedure prescribed and, in particular, Section 7 which contemplates that upon receipt of an application under section 7, the Designated Court shall issue to the Financial Establishment or any other person whose property is attached and vested in the Competent Authority by the Government under section 4, a notice accompanied by the application and affidavits and of the evidence, if any, recorded, calling upon the said Establishment or the said person to show cause on a date to be specified in the notice, why the order of attachment should not be made absolute. Similarly, it is also imperative for the Designated

Court to issue such notice, to all other persons represented to it as having or being likely to claim, any interest or title in the property of the Financial Establishment or the person to whom the notice is issued under sub-section (1), calling upon them to mark their appearance on the specified date and raise their objections as regards to the attachment of the property or any part of the property on the ground that they have an interest in the said property. Not only this, by virtue of sub-section (3) of Section 7, a person claiming an interest in the property attached or portion thereof, notwithstanding that no notice has been served upon him, is also permitted to raise an objection before the Designated Court, before any order is passed under sub-section (4) or sub-section (6), thereby making the attachment absolute and issuing such direction as may be necessary for realisation of the assets attached and for the equitable distribution among the depositors of the money realised from sale of the property attached.

By giving a complete go-bye to the procedure contemplated under Section 7 of the MPID Act, the Special Judge has made the attachment of the properties absolute and that too on the very next day, which is clearly depictive of the fact that no notice was ever issued either to the financial establishment or any other person whose property was attached as Section 4 notification indicated that even the properties of the Chairman, Directors, Promoters have also been attached.

5. Since we are of the clear view that the order dated 11th December, 2024 is in gross violation of the procedure

prescribed under Section 5 read with Section 7 of the MPID Act, the impugned order cannot be sustained. Since we are informed that though there was a direction to conduct the auction of two immovable properties, but the auction is not yet conducted, on setting aside the said order, we permit the competent authority to move a fresh application, after following the procedure prescribed in Section 5 read with Section 7 of the MPID Act. Needless to state that upon an appropriate notice being issued, the financial establishment alongwith its Chairman, Directors, Promoters etc., whose properties are attached, are entitled to raise an objection, which shall be duly considered by the Designated Court before the attachment is directed.

6. The Appeal is made absolute in the aforestated terms.

(SHYAM C. CHANDAK, J.)

(BHARATI DANGRE, J.)