

**Common Order below Exh.138 In Special (MPID) Case
No.136/2024**

(CNR No. MHST21-000447-2024)
((Old No. Spl. (MPID) Case No.233/2022))

AND

Exh.136 & 181 In Special (MPID) Case No.135/2024

(CNR No. MHST21-000439-2024)
((Old No. Spl. (MPID) Case No.232/2022))

(The State of Maharashtra Vs. Nitin Shantilal Kothari & Others)

The original Informant in Special (MPID) Case No.136/2024 prayed to release the principal amount Rs.55,60,000/- of the fixed deposit and the interest thereon approximately Rs.85,00,000/- from the amount deposited by the accused persons in the Court.

The original Informant in Special (MPID) Case No.135/2024 prayed to release the principal amount Rs.9,09,209/- of the fixed deposit and Rs.18,00,000/- as per order of the Hon'ble District Consumer Forum, Satara from the amount deposited by the accused persons in the Court.

2] Submissions of the Informant in Special (MPID) Case No.136/2024 :-

The accused nos. 4, 6, 7 and 13 had filed Criminal Bail Applications Nos. 1107/2023, 1106/2023, 1982/2023, 1975/2023, 2114/2023, 2118/2023, 1181/2023 and 1282/2023 for their relations in the offences bearing C.R.Nos. 47/2019 and 48/2019 registered at Phaltan City Police Station. The Hon'ble High Court directed them to deposit the amount as per their

liability fixed in the enquiry under Section 88 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred as, “the MCS Act”). The said amount was directed to be transferred to the MPID Court i.e. this Court (the then Sessions Court at Satra). The accused have also deposited the amount as per their liabilities in the Court and the same were directed to the MPID Court as per order of the Hon’ble High Court.

3] Parents of the Informant are suffering from High Blood Pressure, Diabetes, Heart disease and spinal ailments. His father had sustained Heart Attack and was advised to undergo surgery. His mother is also under treatment therefore, the Informant is in need of money for the surgery of his father and his treatment and the treatment of his mother. Hence, he prayed to release the amount Rs.90,47,230/-with interest thereon which were lying in the Society in his name and in the name of his family members.

4] Submissions of the Informant in Special (MPID) Case No.135/2024 :-

Parents of the Informant are suffering from High Blood Pressure, Diabetes, Heart disease and spinal ailments. Her father has sustained paralytic Attack and is under treatment. Her mother is also under treatment and therefore, the informant is in need of money. Hence, she prayed to release the amounts Rs.9,09,209/- and Rs.18,00,000/- with interest thereon which were lying in the Society in her name and in the name of her family members.

5] The Ld. Special Public Prosecutor gave no objection for payment of the amounts of the fixed deposits to the Informant in both these cases.

6] Ld. Advocate for accused no. 1 submitted that orders may be passed as per provisions of law.

7] The accused nos. 6, 7 and 8 submitted a reply at Exh. 176 with necessary orders may be passed as per directions of the Hon'ble High Court.

8] The accused no. 3 also submitted that Section 4 to 8 of the Maharashtra Protection of Interest of Depositors Act, 1999 (hereinafter referred as, "the MPID Act") are not applicable to the application of the Informant. There are many investors and multiple proceedings are pending before other Courts. Therefore, it is prayed to pass necessary orders.

9] The accused no. 13 submitted reply come written notes of argument at Exh. 190 with the submissions that it is necessary to consider the provisions of Section 5 and 7 of the MPID Act. The applicant has to submit prevailing legal position in this regard. The Competent Authority under the Act has to exercise the control over the money and properties attached by the Government. The amount deposited in the Court is not equivalent to the amount released through liquidation of assets. The amount release through

liquidation of attached assets has to be distributed equitably among the depositors. The present application is not in tuned with the settled legal position. Therefore, it is submitted that the order ingredients with the provisions of MPID Act may pass.

10] Ld. Advocate for the accused no. 14 has submitted in reply Exh. 211 in Special (MPID) Case No.135/2024 that the accused have deposited the amounts by way of security and for getting bails. Therefore, the informant and the investors have no right to withdraw those amounts. Moreover, the accused will not be able to recover those amounts in future and there will be many technicalities in dealing with the said question. Therefore, he prayed to reject the applications of the informant and the investors.

11] The original Informant has submitted written notes of arguments at Exh. 190. I have orally heard the Ld. Special Public Prosecutor for State and Ld. Advocates for the other accused persons. Perused the record. I have also called a report of the concerned Assistant Superintendent of the District Court, Satra wherein the amounts have been deposited by the accused persons and pending in the criminal 'C' nos. 72, 139, 150, 195 to 197. Total amount is pending at the rate of Rs.1,08,45,000/-.

12] After due investigation, the accused have been charge-sheeted for the offences under the MPID Act. Much stress has been

placed by the accused persons that provisions of Sections 4 to 8 and particularly 5 to 7 of the MPID Act are to be followed while deciding the application of the Informant. Admittedly, the accused have deposited the amounts in the Court as per directions of the Hon'ble High Court in their bail applications. These amounts are admittedly lying in the Court however, the Government or the Competent Authority have not attached the said amounts. The provisions of Section 4 to 8 of the MPID Act deal with the money and the properties attached as per and under the provisions of the MPID Act. Therefore, the amounts deposited in the Court as not have been attached, the procedure for attachment and release of the attached properties under Section 4 to 10 would certainly not attract.

13] Ld. Advocate for the Informant relied upon the judgment of the Hon'ble Supreme Court in the case of ***Rabibai Mohamad Ismail Vs. State of Maharashtra, 2022(1) Mh.L.J. (Cri.) 100***. In this case, the Hon'ble Supreme Court interpreted the phrase /words, 'Equitable distribution' as used in Section 7(4) of the MPID Act and it concluded that it does not mean that there should be 'Equal distribution'. It is also held that the designated Court has the power and discretion to pass appropriate directions for equitable distribution of money in terms of the object of the MPID Act. In the said case there were a total 12,127 investors/depositors however, there was a question of distribution of the attached money and properties under Section 7(4) of the MPID Act.

14] In the case in hand as it is admitted fact that the amount deposited in the Court is not under attachment and therefore, there is no question to give directions to the Competent Authority for distribution of this amount. The Informant has invested huge amounts in his name and in the name of his family members in the '1008 Chintamani Parshwanath Gramin Bigarsheti Patsanstha Limited, Kolki' (In short, ' the said Society'). Therefore, certainly he would have the right to get his amount to release.

15] Ld. Advocate for the Informant also relied upon the judgment of the Hon'ble Supreme Court in the case of ***Rakesh Baban Borhade Vs. State of Maharashtra, (2015) 2 SCC 313***. In this reported case while releasing the accused on bail, the Hon'ble Supreme Court also permitted the Informant to withdraw the amount Rs.One Crore, deposited by the appellant/accused in the Court. The withdrawal of the said amount by the Informant was subject to the result of pending litigation between the parties. In view of the said case, in the case in hand also I am of the opinion that the Informant and his family are entitled to withdraw the amount however, to the extent of the principal amounts of fixed deposits.

16] The Informant in Special (MPID) Case No.136/2024 has produced Schedule-A of the deposited amounts in his name and in the name of his family members along with Exh. 185. According to

the said Schedule details of fixed deposit amounts and interest are as under :

Sr.No.	Name	Amount	Interest
1]	Shri. Rajesh Mohanlal Doshi.	Rs.5,98,500/-	Rs.6,78,999/-
2]	Shri. Mohanlal Talakchand Doshi.	Rs.14,60,000/-	Rs.20,53,194/-
3]	Sou. Rupali Rajesh Doshi.	Rs.3,01,000/-	Rs.3,42,384/-
4]	Sou. Sunita Mohanlal Doshi.	Rs.21,17,000/-	Rs.27,79,450/-

17] The informant has submitted that the accused have issued cheques against some fixed deposits which were firstly transferred in the saving account and then the cheques were issued. The informant has produced relevant documents along list of documemnts Exh. 212. It appears that the accused have issued cheques as below :

Sr.No.	Name	Cheque No.	Amount
1]	Shri. Rajesh Mohanlal Doshi.	000628	Rs.317364/-
2]	Shri. Mohanlal Talakchand Doshi.	000565	Rs.325000/-
3]	Sou. Rupali Rajesh Doshi.	000626	Rs.211577/-
4]	Sou. Sunita Mohanlal Doshi.	000627	Rs.221814/-

18] It is not disputed fact that the informant and his above said family members had kept the amounts in fixed deposits and against some fixed deposits which are described in the documents annexed with the list of documents Exh. 212. It is also an admitted fact and prima facie established that the accused have issued the above said cheques against the fixed deposit amounts which were shown transferred in the saving accounts. However, those cheques

were dishonoured and the informant has also filed complaints of the offence punishable u/s. 138 of the N.I.Act. This fact is also mentioned in the FIR. Therefore, I am inclined to hold that the informant is entitled to get the said amounts also from the amounts deposited by the accused in the Court.

19] The Informant in Special (MPID) Case No.135/2024 has produced Schedule-A of the deposited amounts in his name and in the name of his family members along with Exh. 181. According to the said Schedule details of fixed deposit amounts and interest are as under :

Sr.No.	Name	Amount	Along with Interest
1]	Bhagyashri Kamlakar Bhat	Rs.33,233/-	Rs.37,803/-
2]	Vidula Anand Inamdar	Rs.1,13,424/-	Rs.1,29,020/-
3]	Raghavendra Kamlakar Bhat	Rs.50,000/-	Rs.56,876/-
4]	Suvarna Kamlakar Bhat	Rs.4,54,352/-	Rs.5,16,794/-
5]	Kamlakar Dattatray Bhat	Rs.2,58,200/-	Rs.2,93,700/-

20] The informant in the Special (MPID) Case No. 135/2024 also submitted that the District Consumer Forum, Satara has also directed to pay the above said amounts of fixed deposits to her as per order dtd. 14.02.2020 as follows :

Sr.No.	Name	Amount
1]	Bhagyashri Kamlakar Bhat	Rs.49,373/-
2]	Vidula Anand Inamdar	Rs.1,91,622/-
3]	Raghavendra Kamlakar Bhat	Rs.81,197/-
4]	Suvarna Kamlakar Bhat	Rs.7,97,876/-
5]	Kamlakar Dattatray Bhat	Rs.4,43,896/-

21] The above said informant has produced copies of the judgments passed by the Hon'ble District Consumer Forum, Satara in the complaint applications filed by herself and her family members along with list of documents Exh. 204 in Special (MPID) Case No. 135/2024. The Hon'ble District Consumer Forum has passed the judgments in their favour.

22] The MPID Act is enacted to protect interest of the depositors / investors. Therefore, the paramount consideration is the interest of the depositors /investors to the extent of their deposited amount and that they shouldn't suffer loss. In view of the above facts and discussion and settled position of law in the judgments in *Rabibai and Rakesh*, cited above the informants and their families /depositors are entitled to withdraw the amounts.

23] Thus, the Informant and his family members are entitled to get the amount as mentioned above against their names to the extent of the principal amounts for fixed deposits. Their claim of interest on the said amounts would not be prejudiced and then they are entitled to claim the amount of interest, as per law. Moreover, the administrator of the said Society has to account the amounts as per this order against the fixed deposits in the accounts of the said Society. Thereafter, the amount if payable along with interest till the date of actual payment of the fixed deposits to the Informant shall also be accounted. The administrator is also at liberty to adjust the following amount paid to the Informant and

his family members against the liability, fixed upon the Directors / the accused who have deposited the amounts in the Court.

24] Consequently, the applications deserve to be partly allowed. Hence, I pass the following order.

ORDER

[1] Applications Exh.138 in Special (MPID) Case No. 136/2024 and Exh. 136 and 181 Special (MPID) Case No. 135/2024 are partly allowed.

[2] The principal amounts in fixed deposits to be paid to the informant in Special (MPID) Case No. 136/2024 and his family members as mentioned below in Table-I & II from the amounts deposited in the Court by the accused as reported by Nazir/Assistant Superintendent, District Court, Satara.

Table-I

Sr.No.	Name	Amount
1]	Shri. Rajesh Mohanlal Doshi.	Rs.5,98,500/-
2]	Shri. Mohanlal Talakchand Doshi.	Rs.14,60,000/-
3]	Sou. Rupali Rajesh Doshi.	Rs.3,01,000/-
4]	Sou. Sunita Mohanlal Doshi.	Rs.21,17,000/-

Table-II

Sr.No.	Name	Cheque No.	Amount
1]	Shri. Rajesh Mohanlal Doshi.	000628	Rs.317364/-
2]	Shri. Mohanlal Talakchand Doshi.	000565	Rs.325000/-
3]	Sou. Rupali Rajesh Doshi.	000626	Rs.211577/-
4]	Sou. Sunita Mohanlal Doshi.	000627	Rs.221814/-

3] The principal amounts in fixed deposits to be paid to the informant in Special (MPID) Case No. 135/2024 and her family members as mentioned below in Table-III from the amounts deposited in the Court by the accused as reported by Nazir/Assistant Superintendent, District Court, Satara.

Table-III

Sr.No.	Name	Amount
1]	Bhagyashri Kamlakar Bhat	Rs.33,233/-
2]	Vidula Anand Inamdar	Rs.1,13,424/-
3]	Raghavendra Kamlakar Bhat	Rs.50,000/-
4]	Suvarna Kamlakar Bhat	Rs.4,54,352/-
5]	Kamlakar Dattatray Bhat	Rs.2,58,200/-

[4] The Informant in both these cases and above depositors are directed to execute Indemnity Bond on affidavit to the extent of above said amounts to return the same, if they are directed so in future.

[5] The above said amounts be adjusted against the fixed deposits of the informant and their family members as above by the Administrator of the said Society and against the liability fixed / would be fixed under Section 88 of the MCS Act.

[6] Copy of this order be sent to Assistant Superintendent, District Court, Satara for compliance.

(Common order below Exh.138 in Spl. (MPID) Case No. 136/2024 and
Exh. 136 & 181 in Spl. (MPID) Case No. 135/2024)

[7] The original copy of this order be kept in Special
(MPID) Case No. 136/2024.

(Dictated and pronounced in Open Court)

Phaltan
Date : 04.05.2024

(Pravin V. Chatur)
Addl. Sessions Judge and
Special Judge (Under MPID Act),
Phaltan.

Dictated On	30.04.2024 & 04.05.2024
Transcribed On	04.05.2024
Checked On	04.05.2024
Signed On	04.05.2024