

ORDER BELOW EXH. NO. 81 IN SPECIAL CIVIL SUIT NO.

1023/2011

Mrs. Chand Masood Sayed

Vs.

Mr. Anil Danamal Chandwani and others

This is an application filed by the defendant No. 4 for dismissal of the suit.

2. The application is in short as under :

The suit is filed by the plaintiff for cancellation of various sale deeds in respect of suit properties. In para No. 21 of the plaint it is stated that Economic Offences Wing Mumbai had attached the suit properties under the provision of 102 of Criminal Procedure Code. C.R. No. 74/2007 was registered against the husband of plaintiff and other persons. While filing the charge-sheet in C.R. No. 74/2007 the Economic Offences Wing had attached several properties. By the notification dated 17.06.2016 the suit properties are also attached. It is further stated that suit properties has been attached by the Government of Maharashtra and it is also the subject matter of trial before the court. In view of section 2 of M.P.I.D. Act, no court other than designated court had jurisdiction to try any matter in respect of provisions of M.P.I.D. Act. Hence, considering all above facts, defendant No. 4 had prayed for dismissal of the suit.

3. The application is resisted by the plaintiff by filing the reply

at Exh. 85. The attachment of property by Economic Offences Wing is admitted by the plaintiff. The filing of charge-sheet in C.R. No. 74/2007 is also an admitted fact, but it is objection of plaintiff that suit cannot be dismissed due to filing of criminal proceeding. It is also stated that defendant has filed M.A. No. 434/2016 before the designated court for releasing the attachment over the suit properties. But it is denied that this court is not having any jurisdiction to try and entertain the suit when the properties are attached under MPID Act.

4. The applicant and his advocate are absent when called out. The pendency of petition under the provisions of M.P.I.D. Act is an admitted fact, but final order is not placed on record. The effect of order passed in C.R. No. 74/2007 can be taken into consideration at the final stage of the suit. Prima facie defendant No. 4 has failed to point out how the suit is liable to be dismissed due to pendency of criminal proceeding. Hence, the order.

∴ ORDER ∴

1. Application be kept in abeyance till final disposal of the suit.

Date : 02.11.2019

(P. G. Deshmukh)
7th Jt. C.J.S.D. & Addl. CJM
Pune at Vadgaon Maval.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment / order is same word for word as per original Judgment / order.

Name of Steno	: Smt. S. R. Yedke (Steno Grade II),
Court Name	: Shri. P. G. Deshmukh
	: 8th Jt. C.J.S.D. & Addl. CJM
	Pune at Vadgaon Maval
Date of Judgment / order	: 02.11.2019
Judgment / order Signed by P. O.	: 02.11.2019
Judgement/ order Uploaded on	: 14.11.2019