

MHCC020048822022



**BEFORE THE DESIGNATED COURT UNDER M.P.I.D. ACT
CITY CIVIL & SESSIONS COURT, MUMBAI**

ORDER BELOW EXHIBIT 3

IN

MISCELLANEOUS APPLICATION NO 528 OF 2022

IN

MPID CASE NO.07 OF 2016

IN

C.R.NO.83 OF 2015

Mr. Somnath Tukaram Shelke

...Applicant

Versus

The State of Maharashtra

(At the instance of Economic

Offence Wing Unit VII) And 2 Ors.

...Respondents

Coram : HHJ Abhijeet A.Nandgaonkar

(Court No. 20)

Date: 10.06.2024

Appearance:

Ld. Adv. Sartaj Pathan for the Applicant.

Ld SPP. Mr. Sandeep Kekane @ Ms.Chaitrali Panshikar for
Respondent/State.

Ld. Adv. M. B. Shirsat for accused Nos 1 and 3.

ORDER

(Dictated and pronounced in open court)

By way of this application Ld. Adv. Sartaj Pathan for applicant prayed for amendment to add Respondent No.4 i.e. original accused Sureshlal Srivastav in the title of the Miscellaneous Application No. 528 of 2022.

02. The applicant through his advocate submitted that he has filed miscellaneous application 528 of 2022 for purchasing the property mentioned at serial No.37 of the notification No. MPI-2016 C.R. 79/pol/11 dated 31.03.2017 "Gat N.514, Area 28.7R at village Gadad, Taluka Khed, Dist Pune". However, in the said application accused Sureshlal Srivastav required to be made as party respondent No.4. Thus, applicant prayed to permit him to add accused Sureshlal Srivastav as respondent No.4 in title clause of miscellaneous application No. 528 of 2022

03. Say of the Ld. SPP is called. Ld. SPP filed reply overleaf the application and submitted that applicant has proposed to make only Sureshlal Srivastav, names of all to be added as party. In fact all the main accused should be made as party to the application. Hence all the main accused may be added as party and not only Sureshlal Srivastav.

04. Heard both sides. Perused the application and say filed by the State, EOW. I have also gone through the miscellaneous application No. 528 of 2022. Perused the submission in view of the admitted fact that the property being notified and applicant is inclined to purchase it, it is necessary to add original accused Sureshlal Srivastav as respondent No.4 as necessary parties in the application wherein the applicant is seeking permission to purchase the property who is related with the disputed property. As per objection of Ld. SPP all accused are required to be made party, however the dispute related to the property which is pertain to accused no.4. Hence other accused if found necessary can be called upon to file their say/objection. In such circumstances, the purpose of amendment to add original accused Sureshlal Srivastav as a party respondent No.4 is just and proper for decision of matter and to have effectual adjudication on merit.

05. Initially applicant should have add original accused Sureshlal Srivastav as necessary party in order to avoid further complication. Hence it is necessary to permit the applicant to add original accused Sureshlal Srivastav as party respondent No.4. By adding original accused Sureshlal Srivastav as party respondent the nature of the application is not going to change nor it will caused prejudice to either of the parties. Due diligence is shown by the applicant since they received instruction to add original accused Sureshlal Srivastav as party respondent No.4 as necessary party in the application. In such circumstance, application needs to be allowed. Hence, I proceed to pass following order.

ORDER

1. Exhibit 3 moved by the applicant Mr. Somnath Tukaram Shelke for amendment in Miscellaneous Application No.528/2022 to add original accused Sureshlal Srivastav as party respondent No.4 is allowed.
2. Applicant is directed to carry out necessary amendment within 14 days from the day of order by adding original accused Sureshlal Srivastav as respondent no.4 in the title clause of the Miscellaneous Application No. 528/2022 and to file amended copy of the Miscellaneous Application No.528/2022 within 14 days thereafter.
3. Issue notice to only newly added respondent No.4/original accused Sureshlal Srivastav to file his reply.
4. Copy of amended Miscellaneous Application No.528/2022 be served on original accused Sureshlal Srivastav.
5. Party to bear their costs.

6. Accordingly Exh.3 In M.A. No.528 /2022 in MPID Case No.07/2016 stands disposed off.

(Abhijeet A. Nandgaonkar)

Designated Judge, MPID Court, (C.R.No.20)
And Addl. Sessions Judge,
City Civil & Sessions Court, Gr. Bombay.

Date : 10.06.2024

Dictated on	:10.06.2024
Transcribed on	:10.06.2024
Draft submitted	: 10.06.2024
Corrected on	: 10.06.2024
Singed on	: 10.06.2024

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL
SIGNED JUDGMENT/ORDER”

UPLOAD DATE AND TIME
10.06.2024

NAME OF STENOGRAPHER
Mrs. R.R.Hate

Name of the Judge (with Court Room No.)	HHJ Abhijeet A.Nandgaonkar
Date of Pronouncement of JUDGMENT/ ORDER	10.06.2024
JUDGMENT/ORDER signed by P. O. on	10.06.2024
JUDGMENT/ORDER uploaded on	10.06.2024