

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 2021 of 2024**

With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2024
In R/FIRST APPEAL NO. 2021 of 2024

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KUTUBUDDIN RAJA NIZAMUDDIN SAIYED

Versus

COMPETENT AUTHORITY AND SUB DIVISIONAL MAGISTRATE & ORS.

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Appearance:

MR. HRIDAY BUCH, COUNSEL WITH DHRUVIK K PATEL(7769) for the
Appellant(s) No. 1

MR GA KADRI(1876) for the Appellant(s) No. 1

MR. ADITYASINH JADEJA, AGP, for the Defendant(s) No. 1,2,3,4,5,6

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CORAM: HONOURABLE MR. JUSTICE BIREN VAISHNAV
and
HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 13/06/2024

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE BIREN VAISHNAV)

1 The appeal is filed by the accused challenging the order dated 03.04.2024 passed by the Designated Court under The Gujarat Protection of Interest of Depositors (in Financial Establishment) (for short "GPID") Act, 2003.

2 Mr.Hriday Buch, learned Counsel appearing with Mr.Dhruvik Patel, learned counsel appearing for the appellant, would submit that though a specific pursis was

filed before the Designated Court that the property listed at serial No.1 in the Auction Notice dated 08.05.2024 be exempted from being auctioned, inasmuch as, the same was purchased prior to the offence, the relief has not been granted to the appellant / applicant. He would submit that since the property was purchased by the accused prior to the offence, it should be exempted from the purview of the proceedings of the GPID Act. He would also press into service the provisions of Sec.7 and 8 to indicate that having apprised the Court of the examination and cross-examination of Shri V.M.Thakkar at Exh.16, the exact amount that the depositors have been duped of has not been ascertained and there seems to be discrepancy in the figure that has been recorded by the Designated Court and that of which the competent authority has arrived at. He would, therefore, assail the order of the Designated Court on this ground and request that proceedings be sent back for appropriate ascertainment including that of the submission made in context of the property being exempted.

3 Additional affidavit has been filed during the course of hearing today to indicate that in light of the proceedings under the GPID Act and the FIRs, the appellant had deposited an amount of Rs.36,30,000/- before this Court. The amount of Rs.10 lakhs was deposited by Mrs. Shabnambanu Saiyed, wife of the present appellant and an amount of Rs.26,30,000/- in installments, was deposited by the father of the appellant. He has further shown willingness to deposit an amount of Rs.15 lakhs before this Court.

4 Admittedly, the property that is sought to be auctioned is owned by the accused. Prima facie, the provisions of the Act would encompass such properties and though Mr.Buch, learned counsel, would want us to accept his submission with regard to the purview of the Act and the sections, we are of the opinion that since the property admittedly belongs to the accused, on a condition that he deposits the amount of Rs.25 lakhs before the competent Court within a week from today, the

auction proceedings shall go on with respect to the property at serial No.1 in the auction notice dated 08.05.2024. However, the outcome will be subject to further orders of this Court.

Issue Notice, returnable on 25.06.2024.

(BIREN VAISHNAV, J)

(NISHA M. THAKORE,J)

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