

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL No.5938 OF 2016

SHIVAJI ESTATE LIVESTOCK AND FARMS PVT. LTD

... APPELLANT

Versus

ADELKAR PRATIBHA B. (DEAD) & ORS.

... RESPONDENTS

WITH

C.A. Nos.18323-18324/2017

O R D E R

1. These two cross appeals are directed against the order dated 16.02.2015, passed by the National Consumer Disputes Redressal Commission (for short, 'the National Commission'), whereby the appellant-company, Shivaji Estate Livestock and Farms Pvt. Ltd. has been directed to refund the investments made by the respondent-investors along with interest, in the scheme(s) floated by the appellant. The cross appeal by the respondent seeks limited relief of making the direction of the National Commission time-bound.

2. The appellant-company is in the business of real estate, hotels, animals feed and livestock farming. The appellant has been inviting potential investors to invest in its Goat Farming and

allied activities by floating various schemes. According to learned State Counsel, there are in all 30,093 investors. It seems that such investors were promised a minimum return on their investments, in addition to bonus and lucrative interest under the different investment schemes. However, those promises were not honoured by the appellant. Some of the investors, i.e., 373 in all, approached the National Commission and vide impugned order dated 16.02.2015, as noticed at the outset, a direction has been issued to refund their invested amount along with interest.

3. The appellant-company is in appeal primarily on the ground that FIR No.134/2003 was registered against it and its Directors etc. under Sections 406, 420 and 34 IPC read with Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (for short, 'the MPID Act') on 23.12.2003 in which the chargesheet came to be filed on 29.03.2004. All the movable and immovable assets of the company were, thereafter, attached by the State of Maharashtra through a Notification dated 27.04.2005 and consequently, all such assets stood automatically vested in the State by implication of law. On this premise, the appellant has urged that the implementation of the direction issued by the National Commission for refund of the invested amount is beyond its control.

4. Having regard to the above-cited plea, and to test its bonafide, the appellant was directed on 23.08.2022, to place the orders on record whereby the State of Maharashtra had taken over its assets, and also to implead the said State as a party respondent.

5. The appellant has complied with the above direction and in deference thereto, the State of Maharashtra, namely, respondent No.374, has filed its counter affidavit. Para 6 of the said affidavit states as follows:

"6. I say and submit that, in exercise of powers under Section 4(1) of MPID Act, upon being satisfied that the - Financial Establishment (FE) failed to return the deposit on demand by the depositor, the Government of Maharashtra in order to protect the interest of the depositors of such Financial Establishment issued an order dated 27.04.2005 and duly notified the same in the Official Gazette attaching the money and other property acquired by such Financial Establishment in their own name or in the name of any other person out of the deposit collected by the Financial Establishment. The copy of the notification dated 27.04.2005 has been annexed with the Civil Appeal."

6. As regard to the sale of the company's assets, which now stand vested in the State, and consequential disbursement of the sale proceeds amongst the investors on pro-rata basis, the State of Maharashtra has taken the following stand in para Nos.18, 19 and 20 of the counter affidavit:

"18. I say and submit that, pursuant thereto the matter was listed before the MPID Court on 26.09.2022 when the Designated Court directed the Competent Authority to hold meeting with the Investors alongwith the Investigator and the accused on 20.10.2022. As per the said order a meeting was held between the Investigator, Competent Authority, investors and the representative of the accused persons on 20.10.2022 the accused person offer to pay the entire principal amount alongwith an additional amount being 15% of the principal amount as compensation for satisfactory disposition of the case.

19. I say and submit that, the Competent Authority and the investigator, as per the records available, have tried to verify and quantify the number of investors who had deposited money with the financial establishment.

20. I say and submit that, as per the records of this office, the number of investors who have been

identified are quantified at 30,093 numbers. The defaulted amount to which such quantified investors are entitled is Rs.41,80,84,408/-. This aspect is also recorded in the order dated 08.03.2019, of the MPID Court as also the order dated 16.12.2019 passed by the Hon'ble Bombay High Court."

7. It is, thus, not in dispute that the stage is now set to dispose of the assets of the appellant-company, taken over by the State, under the supervision of the MPID Court. It seems that before the MPID Court could proceed to alienate the assets and disburse the sale proceeds amongst the investors, the accused persons have moved applications for plea bargain, as is mentioned in para 18 of the State's affidavit, reproduced above. We are informed that the matter is currently pending before the MPID Court, at that stage only.

8. Learned counsel for the respondent-investors submits, and rightly so, that the MPID Court should consider the claim of all the investors. In case the 'plea bargain' offered by the accused persons is not accepted, the assets of the company are liable to be liquidated at the earliest so that the sale proceeds can be disbursed amongst all the investors including respondent Nos.1 to 373 on pro-rata basis. Learned counsel for the appellant also does not dispute the desirability of adopting such a recourse by the MPID Court.

9. In this view of the matter, these appeals are disposed of with the following directions:

(i) The designated Court under the MPID at Mumbai is directed to decide the application(s) moved by the accused for 'plea bargain' in accordance with law as

early as possible but not later than eight weeks.

(ii) In case the MPID Court finds merit in the plea, no further question will arise. The respondents then are free to execute their decree. In case the MPID Court does not find any merit in such application(s), it shall immediately lay down the modalities for disposal of all movable and immovable assets of the company. The needful, in this regard, shall be done within four weeks thereafter.

(iii) The MPID Court shall then follow a transparent procedure for auctioning of the above-mentioned assets in order to fetch the highest price. Let the needful, in this regard, be done preferably within two months after the modalities are completed.

10. It goes without saying that the auction notice shall be given wide publicity along with the accurate description of the immovable assets to be auctioned, with a specific recitation as to whether such properties are free from encumbrances. Such a recourse will attract more prospective buyers. These pre-requisites are meant to secure maximum value, owing to the fact that there are large scale investors whom such proceeds are required to be disbursed on a pro-rata basis.

11. It is clarified that other related issues that may arise during the process as directed above, will be resolved by the MPID Court and the parties need not approach this Court for clarification of day-to-day impediments.

12. For the sake of clarity, we may add that respondent Nos.1-373 shall also be amongst the total investors to whom the sale proceeds will be disbursed on pro-rata basis. It will, thus, not be necessary for the MPID Court to make payments to the respondents strictly as per the order passed by the National Commission. However, if the sale proceeds are sufficient enough to satisfy the claims of all the investors in entirety, in that case, the MPID Court shall give full effect to the order passed by the National Commission in favour of the respondents.

13. The appeals are disposed of in above terms.

.....J.
(SURYA KANT)

.....J.
(K.V. VISWANATHAN)

NEW DELHI;
FEBRUARY 12, 2024.

