

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

**MISCELLANEOUS APPLICATION NO.432 OF 2015
IN
MISCELLANEOUS APPLICATION NO.98 OF 2013
IN
M.P.I.D. NO.1 OF 2014**

Pankaj Ramnaresh Saraf]
Aged: 39 Years, Residing at 182,]
Venus Apartment, Cuffe Parade,]
Mumbai 400 005.]...Applicant.

V/s.

1. The State of Maharashtra]
(at the instance of EOW in C.R. No.89/13)]
2. The Competent Authority]
(Appointed by the Government in MPID]
Special Case No.1 of 2014)]
3. M/s. National Spot Exchange Ltd.]
FT Tower, CTS No.256 and 257]
4th Floor, Suren Road, Chakala, Andheri]
(East), Mumbai 400 093.]
4. Mohan India Private Limited]
a company registered under the Companies]
Act, 1956, and having registered office at]
354, Tarun Enclave Pitampura,]
New Delhi 110 034.]
5. Tavishi Enterprises Private Ltd.]
a company registered under the Companies]
Act, 1956 and having registered office]
1A/101, Rangrasyan Apartment, Sector-13]
Rohini, New Delhi 110 085.]

6. Brinda Commodity Private Ltd.]
a Company registered under the]
Companies Act, 1956, and having]
registered office 406, D Mall, Pitampura,]
New Delhi 110 008]
7. Mohan Infracon Private Ltd.]
a company registered under the companies]
Act, 1956, and having registered office]
354, Tarun Enclave, Pitampura]
New Delhi 110 034]
8. Rashmi Gupta]
Aged about 44 years, Residing at]
House No.81, Vaishali, Pitampura,]
Shalimar Bagh North West]
Delhi 110 088, New Delhi]
9. Suman Gupta]
Aged about 39 years, Residing at]
A/101 Rangrasyan Apts., Sector-3]
Rohini, New Delhi 110 085]
10. Jaishree Baba Projects Private Ltd.]
a company registered under the Companies]
Act, 1956, and having registered office]
354, Tarun Enclave, Pitampura]
New Delhi 110 034]...Respondent.

Advocate Karnik for the Applicant.

SPP Advocate Awhad for the Respondent/State.

Advocate Ponda for NSEL /Respondent no.3.

Advocate Singh for Respondent nos.4 to 10.

CORAM : HIS HONOUR SPECIAL JUDGE, MPID ACT.

D. P. SURANA (C. R. No.36)

DATED : 17th October, 2015.

ORDER:

1. This is an application filed by informant in C.R. No.89 of 2013 in MPID Case No.1 of 2014 for directing the competent authority to initiate sale of properties belongs to respondent nos.4 to 10 and to transfer the sale proceeds in account of competent authority for disbursement.

2. Heard Advocate Karnik for applicant. SPP Advocate Awhad for State called absent. Also heard competent authority and investigating agency. Respondent no.3 has already asked for the similar relief in MA No. 33 of 2014 but with different facets and contentions. Advocate Singh for respondent nos.4 to 10 without filing reply made submissions that in view of injunction granted against respondent nos.4 to 10 by Hon'ble High Court in a suit filed by NSEL against them, they are enjoined in terms of prayer clauses (g) & (h) of Suit Nos.106 of 2014 and 109 of 2014 in Notice of Motion Nos. 2632/14 & 2633/14 to deal with the properties mentioned in the application, as such he cannot give any consent to the sale of property / properties.

3. Advocate Ponda instructed by Naik Naik and Company for NSEL present. He filed his reply to the application (Exh.2). The main contention of respondent / NSEL as argued by Advocate Ponda are mentioned by them in para no.5 of reply, reproduced herein below:

- (a) That the sale of the properties is not under / or as per the settlement agreement.
- (b) That it is made clear that the order of the sale of the

properties, being passed by this Hon'ble Court is not to be construed as if NSEL is accepting the settlement agreement dated 30th October, 2013 to be enforceable.

- (c) That the order sale of the properties by this Hon'ble Court will in no manner affect or prejudice the prayers / reliefs in the suit, applications, thereunder, prayers / reliefs therein and other proceeding filed by NSEL before the Hon'ble Bombay High Court for recovery of the entire larger amount as claimed therein against Respondent nos. 4 to 10 (Rupees 771 crores as admitted plus the balance amount of Rs.151 crores) claimed inter alia from respondent nos.4 to 10, for the benefit of the trading clients.

4. As of fact by making such submissions, the respondents has not raised any objection under section 7 of the MPID Act to proceed to liquidate the property which is already attached under section 4 of the MPID Act and vested in competent authority. Without discussing and going into any contentions, it is apparent that there is no objection being raised for the disposal of the properties of respondent nos.4 to 10, notified under section 4 of MPID Act by the Government. Hence, it is for the competent authority to liquidate the property / properties and deposit the sale proceed in FDR and report the compliance.

5. All the parties including investors, the respondents and Investigating Officer are at liberty to help the competent authority for the

sale of the properties already notified.

6. It is pertinent to note here that, on perusal of injunction order of Hon'ble High Court, it is only against respondent nos.4 to 10 and not this court who can proceed as regards the said properties are concerned under the MPID Act. It is also pertinent to note here that all the contentions raised by NSEL or any of the parties in any of the proceedings are kept open for adjudication in those proceedings irrespective of the forum.

7. With above observations and directions, miscellaneous application stands disposed of. Authenticated copy of the order be served to the competent authority for immediate compliance.

Date 17/10/2015.

(D.P. Surana)
Spl. Judge, MPID Act &
Addl. Sessions Judge,
City Civil & Sessions Court, Gr. Mumbai.

Order Dictated on : 17/10/2015
Transcribed on : 19/10/2015
Signed on : 19/10/2015

"I affirm that the contents of the PDF file order are the same, word to word, as per the original order."

Name of Steno with post :- Arun A Mudaliyar
(H.G. Stenographer)
Name of the Judge (with Court Room no.) :- HHJ Shri. D. P. SURANA (CR 36)
Date of pronouncement of order :- 17/10/2015
Order signed by the P.O. on :- 19/10/2015

Order uploaded on

:- 26/10/2015