

**BEFORE THE RECOVERY OFFICER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**

**Certificate No. 0436 of 2014**

**Defaulter: M/s Four Season Farms Limited**

**Ms. Pushpa Subramanian.....Applicant**

**ORDER UNDER RULE 11 OF THE SECOND SCHEDULE TO THE INCOME-TAX ACT, 1961 READ WITH SECTION 28A OF THE SEBI ACT, 1992 IN THE MATTER OF FOUR SEASON FARMS LIMITED.**

**BACKGROUND:**

1. Securities and Exchange Board of India (SEBI) vide order dated February 13, 2002 directed M/s Four Season Farms Limited (hereinafter referred to as 'Defaulter') to refund Rs.15.20 crore collected in violation of SEBI (Collective Investment Schemes) Regulations, 1999 together with assured returns, interest, cost, etc. to the investors.
2. Since the Defaulter failed to refund the monies so collected, as directed by SEBI, recovery proceedings were initiated by SEBI against the Defaulter under Recovery Certificate No. 436 of 2014 dated September 19, 2014. A Notice of Demand dated September 19, 2014 was issued to the Defaulter directing them to make the payment of the aforementioned amount within 15 days and vide Notices of Attachment dated September 19, 2014, the bank/demat accounts and mutual fund folios of the defaulter were attached.
3. In spite of the said notices, the Defaulter failed to pay the entire dues and the amount available in the bank/demat accounts of the Defaulter was insufficient to pay the entire dues, as detailed in the Recovery Certificate No. 436 of 2014. Therefore, the Recovery Officer, SEBI vide Prohibitory order dated November 21, 2014 under section 28A of SEBI Act, 1992 read with Rule 16 and 48 of the Second Schedule of the Income-tax Act, 1961, prohibited the Defaulter from disposing, transferring, alienating or charging in respect of:
  - a. *"all the immovable properties held by the Defaulter including the following:*

- i. *17 flats in Vasundhara Building, situated at Plot No. 620 (Pt), Bengali Compound, behind Minaxi Tower, Gokuldharm, Goregaon (East), Mumbai – 400063*
- ii. *252.06 acres of agricultural land at Taluka: Mahad and Mangaon with approx. 500 cashew trees and 40,000 teakwood trees.*
- iii. *Prawns Hatchery Plant at Village: Kothrude, Taluka: Mahad District: Raigad*

b. *All other movable properties held by the Defaulter.”*

4. Further, the abovementioned Prohibitory Order dated November 21, 2014 also directed the Defaulter to furnish the following:

- a. *“complete details of all the movable and immovable properties held by the defaulter and charges, if any thereon in the format prescribed in the Annexure, duly certified by the Board of Directors within one week from the date of this order.*
- b. *copies of all the title deeds, valuation reports of all the properties held by it within two weeks from the date of this order.*
- c. *list of all schemes floated by the defaulter along with brochure/ scheme information document for each of the schemes and details of all activities undertaken under each of the schemes within two weeks from the date of this order.*
- d. *complete list of all investors along with address, telephone number, bank details, details of investments, the amounts due in each of the schemes etc., both in electronic and physical form within one month from the date of this order.”*

5. At this point of time, the Defaulter challenged the said recovery proceedings initiated by SEBI in Appeal No. 62 of 2015 before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as 'the Hon'ble SAT'). In appeal, the Defaulter contended that the amount collected from the investors have already been refunded pursuant to the proceedings initiated under the Maharashtra Protection of Interests of Depositors (in Financial Establishments) Act, 1999 (MPID Act).

6. Accordingly, the Hon'ble SAT vide order dated August 4, 2016 disposed of Appeal No. 62 of 2015, and observed as under:

*"If the amount is already refunded, the proper course for the appellant is to satisfy the Recovery Officer with facts and figures and by furnishing*

*requisite particulars called for and not to challenge the order passed by the Recovery Officer by filing an appeal before the Tribunal.*

*In these circumstances, the counsel for the appellant seeks to withdraw the appeal and seeks four weeks' time to furnish requisite particulars called for by the Recovery Officer.*

*Accordingly, the appeal is allowed to be withdrawn and the appellant is granted four weeks' time to furnish the particulars as per the list set out in the impugned order dated November 21, 2014."*

7. However, the Defaulter failed to furnish any of the details of repayment to the investors or the information directed to be submitted by the Recovery Officer (in the order dated November 21, 2014) within four weeks' time as directed by the Hon'ble SAT, i.e. by September 6, 2016. Subsequently, the Defaulter vide letters dated September 7 and September 26, 2016, informed SEBI that there are no investors whose claims remain unsettled and requested for extension of time till October 4, 2016 for complying with the Hon'ble SAT's order as the records are in the custody of the Hon'ble MPID Court/ Economic Offences Wing (EOW). Since sufficient time has already been given to the Defaulter, the Recovery Officer, SEBI vide letters dated September 14, 2016 and October 4, 2016, directed the Defaulter to submit the information regarding repayment made to the investors and other details as per the directions of SEBI and the Hon'ble SAT.
8. Vide letter dated October 5, 2016 the Defaulter submitted six volumes of photocopies of documents claimed to be pertaining to repayments made to the investors. After analysing the said documents and submissions of the Defaulters, Recovery Officer, SEBI passed an order on November 22, 2016 holding that it would not be possible to conclude that the Defaulter has repaid the entire money to the investors. Accordingly, the claim of the Defaulter that it had repaid entire dues to all the investors was rejected.
9. The Recovery Officer, SEBI, thereafter proceeded to dispose-off the attached assets and in this regard, Notice of Sale for e-auction of 17 flats in Vasundhara Co-Op. Housing Society Limited, Vatika Road, Off Film City Road, Gokuldham, Goregaon (East), Mumbai – 400063 was issued by SEBI on August 10, 2018, *inter alia*, against the properties of the Defaulter and the same was published in Times of India, Lokmat and Dainik Jagran.
10. Against the said Notice of Sale for e-auction, Cello Infrastructure Limited had filed a Writ Petition before the Hon'ble High Court of Bombay on September 6, 2018 seeking to direct SEBI to abstain from auctioning certain flats. Vide order dated September 12, 2018, the Hon'ble High Court of Bombay granted an

interim order and directed that, the auction scheduled to be held on the said date be proceeded with however, SEBI shall not take any decision with regard to finalization of the auction. It may be noted that no bids were received in the above mentioned e-auction and therefore, the auction could not be finalized. Subsequently, an Interim Application No. 40552 of 2022 was filed before the Hon'ble High Court of Bombay by Vasundhara Co-Op Housing Society Limited challenging the attachment of said flats by SEBI.

11. The Hon'ble High Court of Bombay vide order dated October 17, 2023 disposed of the said Interim Application along with the Writ Petition No, 1951 of 2019, and observed as under:

*"2. We have heard learned counsel for the parties, as also having perused the record, we are of the opinion that of the petition in regard to the prayers as made, need not proceed for adjudication any further, suffice it to observe, that in the event, the SEBI has any future plans to auction the property, a 14 days' notice of such auction shall be issued to the petitioners, so as to enable the petitioners to assert any challenge to the same, if the petitioners so desire.*

*3. ...the interveners are free to assert their rights, if any, in regard to the said property in a manner known to law and / or in defending any action, if any resorted by the SEBI against the interveners."*

12. In compliance of the above-said order, vide letter dated May 14, 2025, a 14 days' notice was given to the petitioners as well as the Intervenor in Writ Petition No. 1951 of 2019 wherein a list of flats to be auctioned was provided. Vide the said letter, the Petitioners and Intervenor in the aforesaid Writ Petition were given 14 days' time to assert any challenge to the proposed auction and the attachment of properties.

#### **WRITTEN SUBMISSIONS AND PERSONAL HEARING:**

13. Pursuant to the above notice, the Applicant, through her authorized representative, Ms. Rama Subramanian, and vide letter dated May 26, 2025 (sent through e-mail), submitted the following in respect of Flat No. 304, Vasundhara Co-Op. Housing Society Limited, Goregaon (East), Mumbai – 400063 ("hereinafter referred to as **"Flat No. 304"**):

- a. Ms. Pushpa Subramanian ("The Applicant") lawfully purchased Flat No. 304 from M/s Harishree Enterprises, executing a Sale Deed on 24.04.2001 after full payment. At the time of purchase, there were no legal proceedings or claims involving Four Seasons Farms Limited ("Defaulter"), a partner of Harishree Enterprises.

- b. The flat was sealed on 11.07.2002 under an MPID Court order meant to cover unclaimed flats. No inquiry was made into the ownership before sealing. The applicant had both, title and possession. Subsequently, it was discovered that the defaulters had fraudulently resold the flat and pledged it to a bank.
  - c. The MPID Court, Mumbai, vide order dated 18.02.2014, ordered the flat to be de-sealed and handed back to the Applicant. The order of the MPID Court was prior to the issuance of SEBI's Prohibitory Order. Further, it is submitted that, the Flat was never held in the name of the defaulter or any related party after original sale to the Applicant.
  - d. In view of the above, the attachment of Flat No. 304 is invalid and should be immediately withdrawn. Thus, vide the said letter dated May 26, 2025, the applicant has urged for removal of Flat No. 304 from attachment.
14. Considering the above written submissions of the Applicant, an opportunity of Personal Hearing on June 11, 2025 before the Recovery Officer, SEBI, was granted to the Applicant vide letter dated June 03, 2025. In response to the above letter, the authorized representative of the applicant, vide e-mail dated June 11, 2025 requested for postponement of hearing to June 13, 2025. The same was allowed.
15. The authorized representative of the applicant, Ms. Rama Subramanian, appeared for hearing on behalf of the applicant on June 13, 2025. In the said hearing, Ms. Rama Subramanian made the following submissions:
- a. At the outset, the authorized representative of the Applicant submitted an authority letter from the Applicant authorizing Ms. Rama Subramanian to appear on behalf of and represent the interest of the Applicant before SEBI. Appended with the said authority letter, Ms. Rama Subramanian *inter alia* submitted the copies of the following documents:
    - i. Agreement to Sell dated 15.04.1999 between Harishree Enterprises and Pushpa Subramanian ("the Applicant").
    - ii. Sale Deed dated 24.04.2001.
    - iii. MPID Court order dated 18.02.2014;
  - b. Thereafter, the authorized representative of the applicant submitted that in the year 1992, Harishree Enterprises, a partnership firm acquired a plot of land admeasuring about 18,727.30 sq. mtrs bearing Survey No. 261 (pt), 263 (pt), CTS No. 620 (pt), 619 (pt) at Malad, Borivali, Bombay

Suburban District. Subsequently, Defaulter became a partner of Harishree Enterprises;

- c. Harishree Enterprises commenced construction and started selling the flats to the buyers, which were under construction in 1998 wherein the disputed flat (Flat No. 304) is located;
- d. Mrs. Pushpa Subramanian (the Applicant) purchased Flat No. 304 Vasundhara Co-Op. Housing Society Limited, Goregaon (East), Mumbai –400063, under Registered Documents and against full payment of consideration, from Harishree Enterprises;
- e. On April 13, 2000, based on the complaints received from the investors of Defaulter, Unit VII of CB, CID, Mumbai registered a case against the four directors of the Defaulter under section 120-B r/w 406 and 420 IPC and Sec. 3 and 4 of MPID Act which had come into force on April 29, 1999;
- f. Kunvar Vishwa Mohan and Rajagopal Vasudevan Nair, Directors of Defaulter, were arrested by the EOW, CB, CID, Mumbai and were produced before the Hon'ble Special Court (MPID), Mumbai in R.A. No. 21 / 2001 and 22 / 2001 wherein they assured that they would not deal with any of the immoveable properties.
- g. However, some of the investors complained to the Court that the Investing Officer (hereinafter referred to as “IO”) had not taken action to attach the properties and the accused were still selling the flats on October 5, 2001. After hearing the grievances of the investors, the then Hon'ble Special Judge, MPID Court, Mumbai was pleased to pass the following order:

*"(a) The IO shall forthwith give notice to the Tahsildar / Collector with regard to the agricultural land admeasuring 252.00 acres at Taluka Mahad and Mangaon, Dist. Raigad, as also the hatchery plant admeasuring 11,300 sq. Feet structure, 500 cashew trees and 14,000 teakwood trees.*

*(b) The IO shall identify the remaining flats for which no claim is made by the flat purchasers in the two buildings constructed by Harishree Enterprises (in which some of the accused in this case and their family members are partners). The IO shall keep such flats secured by sealing wherever necessary. Such flats also shall be utilized for payment to the investors in this case."*

The said order did not identify/specify the flats to be secured by the IO of the case. Thereafter, the IO visited the Society Premises and sealed all the premises and thus, the 17 flats came to be sealed;

- h. The Applicant on December 15, 2007, filed an application before the Hon'ble Special Judge for MPID cases for Greater Bombay, for interim release of her Flat No. 304 under section 452 of Cr.P.C.;
- i. The Special Judge, rejected the application of the Applicant for release of her flat on May 25, 2012. Therefore, she filed a criminal writ petition (No.3004/2012) before the Hon'ble Bombay High Court, challenging the Special Court's order. In the meanwhile, Hon'ble Special Judge for MPID cases, Mumbai acquitted all the accused vide its Judgment and Order dated July 24, 2013. The order also directed the police to release the sealed flats to the Accused. Though the writ petition of the Applicant was pending, the Public Prosecutor and the Investigating Officer failed to bring it to the notice of the Special Court, which resulted in the order of releasing the flats to the accused;
- j. The Applicant came to know of the judgement and order of the Special Judge Court and filed an application vide M.A. No. 89/2013 for releasing her flat on October 21, 2013. The Hon'ble MPID Court indicated that it was willing to pass an order in her favour but in view of the pending writ petition, it might not be able to do so and directed her to get a clarification from the High Court;
- k. Accordingly, in W.P. No. 3004/2012, the Hon'ble Bombay High Court passed an order that pending writ petition should not be constructed as a stay. Whereupon, the Hon'ble Special Judge, MPID Court, Mumbai, vide order dated February 18, 2014, ordered for the release of Flat No. 304 to Applicant. The EOW Officials de-sealed the Flat No. 304 and handed over the possession of the flat to the Applicant;

### **CONSIDERATION OF ISSUES:**

- 16.I have carefully perused the documents available on record, the order dated October 17, 2023 passed by the Hon'ble High Court of Bombay, the Order dated February 18, 2014 passed by the Hon'ble Court of Sessions (MPID) for Greater Bombay in MPID Special Case 01/2004 and the oral and written submissions and the documents submitted therein by the authorised representative of the Applicant. After examining the above, the issues for consideration in the instant matter is:

- a. Whether the Applicant in the present matter is the owner of the disputed property i.e. Flat No. 304?
  - b. If the answer to the above is in the affirmative, whether the attachment issued by the Recovery Officer, SEBI vide Prohibitory Order dated November 21, 2014 in respect of Flat No. 304 is to be released or not?
17. Upon a perusal of the documents submitted by the Applicant, it is noted that Flat No. 304 has been purchased by the Applicant on April 24, 2001. The said purchase was effected through execution of Agreement for Sale dated April 24, 2001 between M/s Harishree Enterprise and the Applicant and one Mr Maruti Subramanian (son of the Applicant).
18. From the records, it is noted that the said Agreement for Sale dated April 24, 2001 was in lieu of a valid consideration paid to M/s Harishree Enterprises. The Applicant paid a total consideration of Rs. 9,48,750/- (Rupees Nine Lakh Forty-Eight Thousand Seven Hundred and Fifty only) for Flat No. 304, in fulfilment of para 2 of the Agreement for Sale dated April 24, 2001. The same is corroborated by the 'Second Schedule' of the said Agreement for Sale dated April 24, 2001 wherein a Receipt of Rs 9,48,750/- is acknowledged by Harishree Enterprises. The said receipt is appended to the Agreement for Sale dated April 24, 2001.
19. It is also noted that SEBI has passed an order against the Defaulter directing them to refund the investors along with assured returns at actuals on February 13, 2002. As noted and detailed above, the Applicant has purchased Flat No. 304 before the said Order of SEBI was passed. It is also noted that Flat No. 304 was purchased by the Applicant from M/s Harishree Enterprises, who is one of the partners of the Defaulter and M/s Harishree Enterprises is not the defaulter in the instant proceedings. Since the said purchase was made prior to passing of the order dated February 13, 2002 by SEBI, I find merit in the submissions of the Applicant that Flat No. 304 belongs to the applicant and not the Defaulter.
20. It is also noted that vide order dated 18.02.2014, the Hon'ble Court of Sessions (MPID) for Greater Bombay, while disposing of the MA 89/2013 in MPID Spl. Case 01/2004, released the "*property bearing Flat No. 304 in Vasundhara Co-operative Housing Society, Goregaon-Mulund Link road, Mumbai*" and directed the Investigating Officer to release the said flat and deliver it to the registered owner i.e. applicant Ms. Pushpa Subramanian. The relevant part of the order dated 18.02.2014 passed by the Hon'ble Court of Sessions (MPID) for Greater Bombay in MA 89/2013 in MPID Spl. Case 01/2004 is reproduced below for ready reference:



**CB CID, Mumbai (Complainant) v. Four Season Farms Limited and Ors. (Accused)**

**AND**

**Mrs. Pushpa Subramanian (Intervener)**

“ ...

10. Thus, in view of the above said circumstances, the concerned case MPID 01/2004 is now disposed and there is no specific order in the final order in respect of the present flat and the applicant is therefore, now entitled to have possession of the said flat as the applicant is the bonafide purchaser and the amount for consideration of the said flat has proceeded from the pocket of the present applicant and already sale deed is executed on 24.04.2001 which is also registered on 24.04.2001 at sr. no. 2253. Hence, the present application is deserves to be allowed. In the result, I proceed to pass the following order.

**ORDER**

1. The property bearing flat no. 304 in Vasundhara Co-operative Housing Society, Goregaon-Mulund Link road, Mumbai is released and the Investigating Officer is directed to remove the seal of the said flat and deliver it to the registered owner i.e. applicant Mrs. Pushpa Subramanian and shall send compliance report to this court.

2. The MA 89/2013 is disposed off accordingly.

Date: 18.02.2014

(Sanjay V. Patil)  
Special Judge  
City Civil & Sessions  
Court, Gr. Bombay”

21. In view of the aforesaid, I find that the Applicant is the *bona fide* owner of the Flat No. 304 and therefore, I hold the issue (a) under consideration in the affirmative.

22. Now, since the answer to the issue (a) is in the affirmative, it might be pertinent to refer to the judgement of the Hon’ble Supreme Court in the matter of **Tax Recovery Officer II, Sadar v. Gangadhar Vishwanath Ranade [AIR 1999 SC 427]** wherein the Hon’ble Court, while deciding on the issue of applications

under Rule 11 of the Second Schedule to the Income Tax Act, 1961, held as follows:

*“12. ...if we examine Rule 11(4) of the Second Schedule to the Income-tax Act, it is clear that the Tax Recovery Officer is required to examine whether the possession of the third party is of a claimant in his own right or in trust for the assessee or on account of the assessee. If he comes to a conclusion that the transferee is in possession in his or her own right, he will have to raise the attachment [emphasis added].”*

23. From the consideration of issue (a) in preceding paragraphs, it has been established that the Applicant is in possession of Flat No. 304 in her own right. Therefore, with regards to issue (b), I am of the view that the attachment dated November 21, 2014 issued by the Recovery Officer, SEBI on Flat No. 304, which stands in the name of the Applicant, is liable to be released.

**ORDER:**

24. In view of the above, for the reasons as stated in the preceding paragraphs, I hereby order release of the Flat No. 304, Vasundhara Co-Op Housing Society, Goregaon (East), Mumbai – 400063, from attachment made vide prohibitory order dated November 21, 2014 issued by the Recovery Officer, SEBI. The letter dated May 26, 2025 submitted by the applicant is accordingly disposed of.

25. A copy of this Order is to be served on the Applicant.

Date: November 06, 2025  
Place: Mumbai

-sd-  
**Deepu Anandan**  
**Deputy General Manager & Recovery**  
**Officer**