

Court No. - 52

Case :- CRIMINAL MISC. WRIT PETITION No. - 13020 of 2021

Petitioner :- Rangnath Mishra And Another

Respondent :- Directorate Enforcement, Ministry Of Finance, Government Of India And Another

Counsel for Petitioner :- Man Mohan Mishra

Counsel for Respondent :- A.S.G.I.

Hon'ble Arvind Kumar Mishra-I,J.

Hon'ble Jayant Banerji,J.

Second supplementary affidavit filed today on behalf of the petitioners is taken on record.

Heard Sri Dileep Kumar, learned Senior Advocate assisted by Sri Man Mohan Mishra and Sri Manish Singh, learned counsel for the petitioners, Sri Manu Vardhan, learned counsel for the respondent nos.1 and 2 and perused the material available on record.

By means of this writ petition, the petitioners seek to challenge the order dated 13.12.2021 (Annexure No.6 to the writ petition), passed by the respondent no.2 in Original Complaint (OC) No. 1265 of 2020, under the provisions of Section – 8(3) of the Prevention of Money Laundering Act, 2002 (the Act) and the consequential notices for eviction dated 22.12.2021 bearing no. ECIR 13/LKZO/2014/5/52 and ECIR 13/LKZO/2014/5/53, issued by the respondent no.1 that have been collectively enclosed as Annexure No.7 to the writ petition.

The contention of the learned counsel for the petitioners is that the Appellate Tribunal, constituted under Section – 25 of the Act, is not functioning, which is reflected in

Paragraph No.4 of the second supplementary affidavit filed today in Court.

It is contended that the validity of the provisional attachment order as prescribed under sub section - (1) of Section – 5 of the Act, is a period of 180 days, and, in view of the provision of sub section – (3) of Section – 5, the period has already come to an end, whereafter the impugned order under sub section - (3) of Section – 8 was passed.

It is further contended that in respect of the scheduled offence, the concerned court has already acquitted the petitioner no.1 and the judgment passed by the Special Court in (M.P./M.L.A.), Allahabad in Sessions Trial No. 22 of 2013 has been enclosed as Annexure No.5 to the writ petition. It is contended that two appeals against the orders impugned bearing numbers 4425 of 2021 and 4426 of 2021 have already been filed before the Appellate Tribunal as reflected from the averment made in Paragraph No.3 of the second supplementary affidavit. The contention further is that in view of the non-functioning of the appellate tribunal, no orders are being passed in any of the appeals, at present.

The aforesaid fact, to the effect that the appellate tribunal is not functioning, has not been disputed by the learned counsel for the respondents.

Additionally, the learned counsel for the petitioners has referred to certain orders passed by the Delhi High Court in respect of other appeals pending before the Appellate Tribunal in which directions have been issued to maintain

status quo.

Accordingly, with the consent of counsel for the parties, this writ petition is being ***disposed of***, with the direction that the respondent no.1 is restrained from taking any coercive steps in furtherance of the impugned notices for eviction mentioned above till the petitioners' appeals and stay applications are taken up for consideration by the Tribunal, as and when it becomes functional.

The parties are directed to maintain *status quo* with regard to the subject matter of the attachment orders mentioned above till the petitioners appeals and stay applications are taken up for consideration by the Tribunal.

Till the disposal of the aforesaid appeals, the petitioners shall also not create any third party rights or create any lease/tenancy or any encumbrance in the subject properties, which form the subject matter of the attachment orders concerned.

It is made clear that this Court has not expressed any opinion on the merits of the rival contention of the parties.

Order Date :- 4.1.2022

S Rawat