

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 1263 of 2022

Petitioner :- Suryajala Devi

Respondent :- Union Of India And 2 Others

Counsel for Petitioner :- Vipul Pandey,Rahul Agarwal

Counsel for Respondent :- A.S.G.I.,Alok Ranjan Mishra,G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. List revised.
2. A prayer for pass over is being made on behalf of the petitioner. Shri Alok Ranjan Mishra, learned counsel for the UOI is present.
3. This writ petition has been filed seeking direction to the respondents to keep in abeyance operation and effect of impugned notice for eviction of premises bearing no.ECIR/04/LKZO/2013/5332 dated 3.1.2022, and for quashing the impugned order dated 17.9.2021 passed by the Adjudicating Authority under the Prevention of Money Laundering Act, 2002.
4. On 11.3.2022, the following order was passed:

"While entertaining the writ petition following orders were passed in the matter on 17.02.2022:-

"None appears for the Union of India, although, notices have been received by the Office of the Assistant Solicitor General of India and his name is also shown.

Ms. Manjari Singh, who is a Panel Lawyer of Union of India, has appeared on asking of the Court on behalf of the respondents.

Let this matter be posted as fresh, once again, on 22.02.2022, by when learned counsel for the respondents shall obtain instructions with regard to the averments made in para-27 of the writ petition. "

Petitioner has asserted in para 27 of the writ petition that though provisions of appeal is contemplated in law but the Appellate Forum has not been constituted so far.

Learned Additional Solicitor General of India on the basis of instructions makes a statement that though the Act contemplates constitution of Appellate Forum but the Forum is not available as the Presiding Officer has not been

appointed to the Forum itself.

Large number of petitions are being filed directly before this Court only because Appellate Forum, though conceived of in law, is actually not available.

Before proceeding any further, we would like to call upon the Secretary of the Department concerned to examine the issue and apprise the Court by filing an affidavit as to why Appellate Forum though conceived of in law has not been made functional on account of which the Court is compelled to entertain writ petitions directly.

Required affidavit shall be filed within four weeks.

List this matter before the appropriate Court on 22.04.2022."

5. Subsequently, on 4.5.2022, the interim order for status quo was passed as the order dated 11.3.2022 was not complied with.

6. Learned counsel for the informant states that now the Tribunal has been constituted, and therefore, the petitioner has effective remedy before the Tribunal, where his appeal is pending. Admittedly, even as per the prayer clause, the appeal (Annexure-7 to the petition) is pending before the Tribunal, and petitioner is at liberty to press the same before the Tribunal. It is pointed out that the sole ground for entertaining the present petition is clearly reflected in the above order dated 11.3.2022 that the same was entertained due to non-constitution of the Tribunal.

7. In such view of the matter, we do not find any good ground to keep this petition pending as the Tribunal has been constituted and the petitioner has already availed remedy before the Tribunal.

8. The present petition is consigned to records.

Order Date :- 3.11.2023

Anil K. Sharma