



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

WRIT PETITION NO. 23939 OF 2023 (GM-RES)

BETWEEN:

KALADAN MOHAMMED HARIS
AGED ABOUT 47 YEARS,
R/AT 19-10-624,
UMAYA B R KARKERA RIAD,
MANGALORE,
DAKSHINA KANNAD-575 001.

...PETITIONER

(BY SRI. SHAHBAAZ HUSAIN.,ADVOCATE)

AND:

1. UNION OF INDIA
THROUGH MINISTRY OF FINANCE,
GOVERNMENT OF INDIA,
NORTH BLOCK, CABINET,
SECRETARIAT RAISINA HILL,
NEW DELHI-110 001
REPRESENTED BY ITS SECRETARY.
2. DIRECTORATE OF ENFORCEMENT
BENGALURU ZONAL OFFICE,
3RD FLOOR, B BLOCK,
BMTc SHANTINAGR, K H ROAD,
SHANTHINAGAR,

Digitally
signed by
SUMA B N
Location:
HIGH
COURT OF
KARNATAKA



BENGLAURU-560 027.
REPRESENTED BY JOINT DIRECTOR

3. ASSISTANT DIRECTOR
M.R. CHANDRA SHEKHAR,
DIRECTORATE OF ENFORCEMENT,
MANGALORE-575 008.
4. COMMISSIONER OF CUSTOMS
COMPETENT AUTHORITY U/S 37-A (3),
OF FEMA 1999, 3RD FLOOR,
NEW CUSTOM HOUSE,
GST ROAD, MEENAMBAKKAM,
CHENNAI-600 016.

...RESPONDENTS

(BY SRI. TIMMANNA BHAT.,ADVOCATE FOR R1;
SRI. JAYAKAR SHETTY., ADVOCATE FOR R2 & R3;
SRI. AMIT DESHPANDE., ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED SHOW NOTICE ISSUED BY THE R -2 BEARING NO. F.NO. T-4/ BGZO/05/2023/1854 DATED 11.09.2023 VIDE ANNEX-A AS IT IS ARBITRARY AND ILLEGAL AND ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL



ORAL ORDER

Petitioner is before this Court being aggrieved by issuance of show cause notice by respondent No.2 on 11.09.2023, produced at Annexure-A, as well as initiation of proceedings by respondent No.3 under Section 16(3) of the Foreign Exchange Management Act, 1999 (hereinafter referred to as 'the FEMA, 1999'), in complaint bearing No.T-3/MGSZO/04/2022 by the respondent No.3 is before this Court seeking following reliefs:

"a. Issue a Writ of Certiorari or such other writ as deemed fit by this Hon'ble Court quashing the impugned Show Notice issued by Respondent No. 2 bearing No.F.No.T-4/BGZO/05/2023/1854 dated 11.09.2023 vide Annexure A as it is arbitrary and illegal.

b. Issue a Writ of Certiorari or such other writ as deemed fit by this Hon'ble Court quashing the impugned Complaint bearing No. No. T-3/MGSZO/04/2022 filed by Respondent No. 3 against the petitioner dated 07.07.2023 vide Annexure B as it is arbitrary and illegal.

c. Issue a Writ of Mandamus or such other writ as deemed fit by this Hon'ble Court declaring the action and conduct of the Respondent in initiating proceedings in terms of Section 37A of the FEMA, 1999 as illegal, arbitrary and without any authority.

d. Pass such other orders as this Hon'ble Court may deem fit and necessary in the interest of justice and equity."

2. Sri. Shahbaaz Husain, learned counsel for the petitioner taking this Court through the records submits that respondent No.2 herein had earlier initiated a proceedings against the petitioner under Section 37-A of the FEMA, 1999 on



the allegation of petitioner acquiring certain assets abroad in contravention of the provisions of the FEMA Act, 1999 without obtaining prior permission. Being aggrieved of the initiation of the said proceedings under Section 37-A of the FEMA, 1999, petitioner had approached this Court by filing writ petition in W.P.No.1007/2023, primarily contending that the respondent No.2 could not have invoked provisions of Section 37-A of the FEMA, 1999 in the light of the fact that the provisions contained and the consequences contemplated therein would operate prospectively, whereas, the alleged acquisition of asset by the petitioner was much prior to coming into force of said amended provision of Section 37-A of the FEMA, 1999.

3. He further submits that taking note of this aspect of the matter, the Co-ordinate Bench of this Court after hearing the learned counsel for the petitioner as well as the respondents in the said writ petition, by Order dated 16.01.2023 directed the parties to maintain status-quo as on the said date and the said interim order of status-quo has been extended from time to time. He further submits to circumvent the consequences of the said interim order of status-quo,



prohibiting the respondent-Authorities to proceed further, the respondent No.2 has adopted the rule of issuing the show-cause notice dated 11.09.2023 as per Annexure-A and respondent No.3 filing of the complaint under Section 16(3) of the FEMA Act, 1999.

4. He further submits the genesis for issuance of show-cause notice and initiation of complaint is the allegation of violation of Section 37-A of the FEMA, 1999, which is the subject matter of the earlier writ petition in W.P.No.1007/2023, which is still pending consideration. Therefore, he submits the respondent Nos.2 and 3 arbitrarily and illegally have precipitated the matter in contravention and violation of the status-quo order. Hence, seeks for allowing of the petition.

5. Sri. Jayakar Shetty, learned counsel appearing for respondent Nos.2 and 3 does not dispute that the cause of action for issuance of present show cause notice dated 11.09.2023 and consequent filing of complaint under Section 16(3) of the FEMA Act, 1999, is similar to the one subject matter of the writ petition in W.P.No.1007/2023. He fairly submits that the initiation of subsequent proceedings are



traceable to the cause of action alleged in the said writ petition in W.P.No.1007/2023. Therefore, the subsequent proceedings may not be continued.

6. Heard and perused the records.

7. In the writ petition in W.P.No.1007/2023, the petitioner herein has raised legality or otherwise of the proceedings initiated by the respondent No.3 under Section 37-A of the FEMA, 1999, which is still pending consideration. Besides, there is also an order of status-quo which is stated to be operating till today.

8. Perusal of show-cause notice and the complaint subject matter of the present proceedings indicate that respondent Nos.2 and 3 are continuing very same cause of action *albeit* by way of a fresh show cause notice and the complaint.

9. In view of the fact that the petitioners already approached this Court and this Court has favoured by issuance of interim order of status-quo, continuation of proceedings subject matter of present writ petition arising out of the very same cause of action, cannot be permitted.



10. In that view of the matter, following:

ORDER

(i) Petition is ***allowed***.

(ii) Show cause notice issued by respondent No.2 on 11.09.2023, produced at Annexure-A and complaint bearing No.T-3/MGSZO/04/2022 initiated the respondent No.3 as per Annexure-B are hereby quashed.

(iii) Respondent Nos.2 and 3 are liberty to initiate or revive the same, subject to outcome of the Writ petition in W.P.No.1007/2023.

**SD/-
(M.G.S. KAMAL)
JUDGE**

RL
List No.: 1 SI No.:15.1