

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1558 OF 2015
UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Deepak Bapu Keluskar	}	
Aged 49 years, Indian Inhabitant		
G.S.M. 85/10, Kamdar Nagar-II	}	
Near Piwali Chawl, Patra Shed,		
Dhan Mill Naka, New Prabhadevi	}	
Road, Mumbai-400 025.		
	}	.. Petitioner
vs		
1. State of Maharashtra	}	
through the Secretary to the		
Government of Maharashtra		
Home Department (Special)	}	
Mantralaya, 30 th Floor,		
World Trade Centre,		
Cuffe Parade, Mumbai-400 005	}	
2. Shri R.A.Rajeev		
the Principal Secretary	}	
(Appeals and Security)		
Government of Maharashtra		
Home Department (Special) and	}	
Detaining Authority		
Mantralaya, 30 th floor, World		
Trade Centre,. Cuffe Parade	}	
Mumbai-400 005.		
3. The Secretary, Ministry of Finance	}	
Department of Revenue, B Wing		
6 th Floor, Janpath Bhawan, Janpath Marg,	}	
New Delhi-110 001.		
4. The Additional Director General	}	

Directorate of Revenue Intelligence
UTI Building 13, Sir Vithaldas Thackersey }
Marg, New Marine Lines, Mumbai-400 020

5. The Superintendent of Prison }
Nasik Road Central Prison, Nasik
Maharashtra.

.. Respondents

Mr.V.B.Singh a/w Mr.Santosh Shetty Advocates for Petitioner
Mr.Jayesh.P.Yagnik Additional Public Prosecutor
for Respondent nos.1,2 and 5

Ms.Rebecca Gonsalves Advocate for Respondent no.3
Mrs.A.S.Pai Special Public Prosecutor for Respondent no.4

...
CORAM: S.C.DHARMADHIKARI &
G.S.KULKARNI, JJ
DATE: 17TH JULY 2015

ORAL JUDGMENT (Per S.C.Dharmadhikari, J)

1. This Writ Petition under Article 226 of the Constitution of India challenges the order passed by the detaining authority dated 29th September 2014 under section 3 (1) of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (for short the 'COFEPOSA').

2. This detention order dated 29th September, 2014 at Annexure

'A' alleges that the detaining authority is satisfied that with a view to prevent the detenu in future from smuggling of goods, it is necessary to make the detention order.

3. In the grounds of detention and which run into about 98 paragraphs it is narrated as to how the detenu engaged himself in smuggling activities in an organised manner over a period of more than nine years. That he had established deep links with other members of the smuggling syndicate and therefore, it is required to pass this detention order.

4. Facts necessary to appreciate the grounds on which this order has been assailed are that 132.88 metric tonnes of red sanders valued at Rs.53.15 crores were seized by the Officers of the Directorate of Revenue Intelligence from seven containers on 15th July 2013 at the Container Corporation of India yard at Nhava Sheva. Another 183.350 metric tonnes of red sanders valued at Rs.7.34 crores came to be seized from one container at JWC Logistics Yard. A show cause notice dated 13th January 2014 and a Corrigendum dated 13th January, 2014 came to be

issued against 27 noticees including the detenu. The detenu surrendered himself before the Additional Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai on 13th January, 2014. He was remanded to custody till 16th January, 2014 for investigation. Four statements under section 108 of the Customs Act, 1962 came to be recorded between 13th to 18th January, 2014. The detenu was arrested and remanded to judicial custody till 29th January, 2014. He retracted his statements and before the Additional Chief Metropolitan Magistrate. His remand to judicial custody was extended from time to time. An application for bail came to be rejected on 21st February, 2014. The detenu filed another application for bail in the Sessions Court which allowed it on 12th March, 2014. The detenu was released on 13th March, 2014.

4A. Mr.Singh learned counsel appearing on behalf of the petitioner invited our attention to ground A at page 9 of the Paper Book. He submitted that the impugned detention order is vitiated by an inordinate unexplained delay of 6 months and 16 days. Mr.Singh submits that from the date of his release on bail is 13th January 2014 but the detention order was made in September 2014. The delay in making the same is

unexplained. The reasons for the same in any event are unacceptable and unreasonable. In that regard, and in support of this, our attention is invited to the two affidavits in reply.

5. The detenu's Advocate filed a reply to the show cause notice on 29th January, 2014. A pre-detention representation was submitted to the detaining authority on 11th February, 2014. Another reply to the show cause notice was submitted on 10th April, 2014. Subsequent pre-detention representation dated 26th April 2012 was submitted to the detaining authority. The detention order was made on 29th September, 2014 and executed on 10th April, 2015. The detenu has been lodged in Central Prison, Nasik Road.

6. In the first affidavit which is filed by Mr.M.P.Madhavan Assistant Director in the Directorate of Revenue Intelligence particularly in paragraph 4.1 thereof, Mr.Singh submits that in dealing with para 7A of the petition, which is the ground of delay the Assistant Director submitted that there was no delay on the part of the sponsoring authority in forwarding the proposal for preventive detention of the detenu. The detenu

was absconding after the seizure of the material namely red sanders at Nhava Sheva on 15th July 2013. He was absconding for six months and surrendered before the trial Court on the day of issuance of the show cause notice namely 13th January 2014. Based on evidence available on record, a proposal for his preventive detention was placed before the scrutiny committee on 26th November 2013. The minutes of the said committee conveying the approval of the proposal was received by the sponsoring authority on 28th November 2013 and a proposal for his preventive detention was forwarded to the detaining authority on 16th December 2013 along with relied upon documents serially numbered from 1 to 2459. The time taken for compilation of the required sets of legible copies of 2459 documents is from 28th November, 2013 to 16th December 2013. Subsequently, a show cause notice was issued on 13th January 2014 to the detenu and 27 others. Mr.Singh submits that this affidavit explains as to how a co-detenu was granted bail on 3rd April 2014. The generated documents numbering serially from 2460 to 3004 were forwarded to the detaining authority on 9th April, 2014. Mr.Singh submits that this affidavit stops at this explanation and proceeds to state that as far as the time taken for issuance of the detention order, the same pertains to the detaining

authority. Accordingly, our attention was invited to the affidavit filed on behalf of the detaining authority and particularly paragraph 5 thereof at page 120 onwards of the paper Book. Mr.Singh submits that this affidavit admits that the proposal of detention from the sponsoring authority was received by the detaining authority on 16th December, 2013. The affidavit then proceeds to state as to how a primary scrutiny of the proposal was done and because it was found that the sponsoring authority had not forwarded the check list. It forwarded one set of the relied upon documents which did not have legible stamp and signature of the certifying officer and as to how the Assistant in the Department and the Section Officer brought this fact to the notice of the Deputy Secretary and he made an endorsement of their information on 28th December, 2013. Then the detaining authority directed that legible copies of the relied upon documents and a check list from the sponsoring authority on 26th December, 2013. The Investigating Officer visited the office of the detaining authority on 27th December .2013 and supplied the legible copies of the relied upon documents. However, this Investigating Officer did not do the check list. Therefore, the check list was prepared and Mr.Singh submits that the process through which this check list went through and its ultimate forwarding to the authority so as to

remind the sponsoring authority has been set out at page 121. Mr.Singh submits that the check list, draft reminder are all developments of January 2014. The sponsoring authority in the affidavit also says that it forwarded the balance documents on 9th April, 2014.

7. Mr.Singh submits that the sponsoring authority's affidavit does not reflect that any further documents or materials were forwarded but, the detaining authority proceeds to rely on pre-detention representation and its consideration. It then relies upon the additional information and para-wise comments on the pre-detention representation by letter dated 28th March,2014 and additional brief facts. However, Mr.Singh submits that once the detaining authority received all the documents and further generated documents on 9th April, 2014, then, there is absolutely no explanation as to why the detention order was not made till 29th September, 2014. In that regard our attention is invited to page 124 of the Paper book and the explanation then given about some of the pages being blank and illegible. Mr.Singh however, submits that there has never been any correspondence with the sponsoring authority and if there had been one, the sponsoring authority's affidavit would have indicated the

same. Therefore, then to rely upon certain correspondence will not justify the delay. The delay on the own showing of the detaining authority is of 9 months and 13 days from the date of receipt of proposal. Mr.Singh submits that the time taken by the then detaining authority as sought to be explained is by pointing out that it was making sincere efforts in order to satisfy itself as to the need to detain the detenu. Our attention is also invited to the judgment of the Hon'ble Supreme Court of India in the case of **Pradeep Nilkanth Paturkar vs S.Ramamurthi & ors 1993 SUPP (2) Supreme Court Cases 61** and the judgment prior thereto in **T.A.Abdul Rehman vs. State of Kerala & ors (1989) 4 Supreme Court Cases 741.**

8. Mr.Singh's contentions therefore, are that the delay in passing the detention order in this case vitiates the same. Mr.Singh submits that though the State/detaining authority has made an attempt to justify the delay by referring to pre-detention representation but there is no obligation to consider the same. Further, the sponsoring authority's affidavit does not make any reference to the comments on this representation. The sponsoring authority's affidavit makes no reference to any developments purported to have taken place after 7th April, 2014. Mr.Singh therefore,

submitted that this is a clear case where on account of the unexplained and unreasonable delay, the live link has been severed. The subjective satisfaction on that count therefore, cannot be sustained.

9. On the other hand, Mr.Yagnik learned Additional Public Prosecutor and Mrs.Pai learned Special Public Prosecutor appearing on behalf of the contesting respondents would submit that the magnitude and enormity of the matter must be taken into consideration. This is a case of involvement of several persons in smuggling of red sanders. The volume and value in smuggling is to the tune of Rs.60 crores and more. The detenu was the master-mind and involved in the said smuggling for 9 years and more. In the circumstances, this Court should not countenance the submissions of Mr.Singh on the point of delay. Our attention has been invited to the judgments of the Supreme Court which lay down the principle that delay by itself and ipso facto is not fatal to the detention of a person for in certain cases, it may be unavoidable and unreasonable. What is required by the law is that the delay must be satisfactorily explained and that has been done and therefore, the detention order cannot be held to be vitiated. Reliance is placed on a Division Bench of this Court in the case of

Rafiq Abdul Karim Merchant vs Rajendra Singh Secretary to Government of Maharashtra reported in 1998 (2) Mh.L.J. Page 496.

Reliance is also placed on two decisions in the case of ***Rajendrakumar Natvarlal Shah vs.State of Gujrat AIR 1988 Supreme Court 1255*** and a recent decision of the Supreme Court in ***Licil Antony vs State of Kerala & anr reported in (2014) 11 Supreme Court Cases 326.***

10. With the assistance of the learned counsel appearing for the parties, we have perused the petition and all Annexures thereto, including copy of the detention order and the grounds on which the subjective satisfaction is recorded. We have also perused the affidavits filed in reply. We have also perused the decisions which have been brought to our notice.

11. At the outset, and in the light of our conclusions on the ground of delay, we are of the view that it is not necessary to consider other grounds on which the order of detention has been challenged.

12. As far as the principles in the Supreme Court decisions are

concerned, they are far too well settled requiring reiteration. In the case of **Licil Antony vs State of Kerala (2014) 11 Supreme Court Cases 326** the Hon'ble Supreme Court of India has held that mere delay in making the order of detention under a law like **COFEPOSA** enacted for the purpose of dealing effectively with persons engaged in smuggling and foreign exchange racketeering but owing to their large resources and influence have been posing serious threats to the economy and thereby security of the nation. The Courts should not merely on account of delay assume that if not satisfactorily explained it must necessarily give rise to a inference that there was no sufficient material for the subjective satisfaction of the detaining authority or that such subjective satisfaction was not genuinely reached. Taking of such a view would not be warranted unless the Court finds that the grounds are stale or illusory or that there is no real nexus between the grounds and the impugned order of detention. In **Licil Antony vs State of Kerala** (supra) at the same time the Hon'ble Supreme Court of India referred to its prior judgment in the case of **Adishwar Jain vs Union of India (2006) 11 SCC 339** and concluded that it is no doubt true that if the delay is sufficiently explained, the same would not be a ground for quashing an order of detention under **COFEPOSA** but, if the major part of

the delay remains unexplained then there is no alternative but, to hold that such unexplained delay would vitiate the detention order for the live link can then be taken to have been snapped. Similarly in **Rajinder Arora vs. Union of India (2006) 4 SCC 796** the Hon'ble Supreme Court of India reached the same conclusion. Thus, there are cases and cases and the question whether the prejudicial activities of a person necessitating the passing of order of detention are proximate to the time when the order is made or the live link between the prejudicial activity and order of detention is snapped depends on the facts and circumstances of each case. Even in the case of undue or long delay between the prejudicial activities and passing of the detention order, if, the same is satisfactorily explained and a reasonable explanation is offered, the order of detention would not be vitiated.

13. We are mindful of all these principles and which have been reiterated. We are also of the opinion that reliance by Mr.Yagnik on the decision in the case of **Rafiq Abdul Karim Merchant** (supra) in no way denotes that the principles culled out by us herein above are not applicable or are not relevant. We are mindful of the fact in law relating to preventive

detention like **COFEPOSA** the procedural safeguards under Article 22 (5) of the Constitution of India is a germane factor. If that had not been the case the Division Bench in *Rafiq* (supra) would not have made reference to the decision of Hon'ble Supreme Court of India in the case of *Hemlata K.Shah vs State of Maharashtra reported in (1981) 4 SCC 647* and other cases. We have referred to the fact that the constitutional validity of a law like **COFEPOSA** has been tested twice and it has been upheld by the Supreme Court. While upholding it, emphasis is placed on the threat of smuggling and its impact on national economy.

14. However, in the present case, there are two contentions which we must make note of. The detaining authority's affidavit makes a reference to pre-detention representation and which was forwarded by the detenu. In the affidavit two such representations are referred. The attempt made is that in dealing with them and taking a decision thereon considerable time was consumed. These representations were considered in order to arrive at a proper subjective satisfaction that a person like the detenu is required to be preventively detained to prevent him from smuggling of goods in future. However, when we repeatedly queried

Mr.Yagnik and Mrs Pai on the point that whether there is any obligation in law to consider such representations and in arriving at a subjective satisfaction, Mrs.Pai fairly conceded that if such pre-detention representations are forwarded and they are not taken into consideration that by itself would not vitiate the subjective satisfaction, recorded in the detention order. She also submitted that the sponsoring authority in its affidavit makes no attempt to justify the time taken on that count.

15. However, Mr Yagnik would submit that since such representations were received, we must take a note of the time taken and consumed in dealing and disposing of the same. That is relevant to the point of delay.

16. We find in this case that if the detenu surrendered to custody in January, 2014 and thereafter was in judicial custody till his enlargement on bail, it is the time from the date of such enlargement till the date of the detention order which ought to be taken into consideration. We have to find out that whether explanation for this delay is satisfactory and reasonable. In that regard what we find from the sponsoring authority's

affidavit is that there was no delay in forwarding the proposal for the preventive detention of the present detenu. After setting out as to how upon seizure of red sanders at Nhava Sheva on 15th July, 2013 the accused was absconding for six months. It is stated that the show cause notice was issued on 13th January, 2014. The detenu surrendered on that day and was sent to judicial custody. The proposal for his preventive detention was placed prior thereto and before the screening committee on 26th November 2013. Minutes of the said committee's meeting conveying the approval of the said proposal was received by the sponsoring authority on 28th November, 2013. The proposal for preventive detention was forwarded to the detaining authority on 16th December, 2013 along with the relied upon documents serially numbered from 1 to 2459. These are the events prior to the issuance of the show cause notice and the surrender of the detenu. Thus, the sponsoring authority was satisfied and going by the enormity and magnitude of the crime that the preventive detention was necessary, it drew up a proposal within four months of the seizure and forwarded it to the detaining authority on 16th December, 2013. However, it is candid in pointing out that the proposal was accompanied by relied upon documents. They were serially numbered from 1 to 2459. The time between 28th

November, 2013 and 16th December, 2013 is explained by pointing out that the same was consumed in making sets of legible copies of 2459 documents. It is then stated that the generated documents during the proceedings namely show cause notice etc were serially numbered from 2460 to 3004. They were forwarded to the detaining authority on 9th April 2014. Time thereafter is taken by the detaining authority and the sponsoring authority's affidavit is completely silent about what has transpired after 9th April, 2014.

17. As far as the detaining authority is concerned, its affidavit at page 120 onwards makes an attempt to explain the delay and firstly submits that the sponsoring authority had not forwarded the check list. It forwarded only sets of relied upon documents which did not have legible stamp and the signature of certifying officer. Pertinently all this was noticed by the detaining authority's Office/authority in December 2013 itself. That is how an Assistant in its office brought the above fact to the notice of the Section Officer by preparing a note or preparing a record of information on 19th December, 2013. That was placed before the Section Officer on 19th December, 2013. Then, the Deputy Secretary endorsed it on 26th December

2013. Then the detaining authority directed getting legible copies of the relied upon documents and the check list from the sponsoring authority on 26th December, 2013. On 27th December, 2013 the Investigating Officer visited the office of the detaining authority and handed over the legible copies of the relied upon documents. Once again in December 2013 and precisely on 27th December, 2013, the Investigating Officer did not give the check list according to the detaining authority. Therefore, a note recording the same was put up by the concerned Assistant on 1st January, 2014. The Section Officer endorsed it on 1st January 2014. The letter dated 1st January, 2014 was sent to the sponsoring authority requesting it to forward the check list. On not receiving the check list a draft reminder letter was submitted by the concerned Assistant on 21st January, 2014. The Section Officer endorsed it on that day itself and the Deputy Secretary endorsed it on the next date. This reminder was issued on 22nd January 2014 and even the check list was received by letter dated 23rd January 2014. That is admitted in the affidavit by the detaining authority at page 122 of the paper book. The explanation thereafter is that detaining authority directed scrutiny and submission of the proposal and there was a scrutiny of the proposal, a scrutiny note was prepared which once again

went to the Assistant, Section Officer and the Deputy Secretary. All this was over on 12th February, 2014. Then the detaining authority directed getting additional information on certain points on 14th February 2014 and hence a letter dated 20th February 2014 calling for additional information was despatched.

18. If thereafter also some time was taken and between the two authorities for seeking certain clarification or getting proper and complete sets or preparation of documents one could have possibly assumed something in favour of the authority.

19. It is the detaining authority itself which is referring to pre-detention representation. There were two pre-detention representations and received in the office of the detaining authority. In para 90 of the detention order there is a reference to the pre-detention representations dated 11th February 2014 and 26th April 2014. We do not see any satisfaction for the detaining authority to refer to these representations when it is conceded at least by the sponsoring authority that it had no obligation to consider such a pre-detention representation before making and finalizing its proposal for

detention and forwarding it to the detaining authority.

20. The detaining authority however sought to rely upon the Circular purportedly issued by the Central Government cautioning the detaining authority against non-consideration of such a representation. According to Mr Yagnik it is that the Circular which obliges the detaining authority to consider the same.

21. We are not impressed by this submission. No larger question or wider controversy and in the present set of facts needs to be decided. Suffice it to note that there are divergent views which have been canvassed before us with regard to this obligation and which has not been spelt out in law. However, what we find and very strange is that the detenu has forwarded his pre-detention representation in February 2014 and April 2014. However, all the allegations against him are already on record in the form of a show cause notice issued on 13th January 2014 and his detailed reply thereto on 29th January, 2014 and 10th April, 2014. These were on record and together with all generated and forwarded documents by the sponsoring authority. Yet not resting the explanation on delay only on this,

and seeking to refer to remarks and comments of the sponsoring authority on the pre detention representations, the detaining authority seeks to justify the delay. We find that the sponsoring authority had forwarded its para-wise comments in March 2014 itself. Thus, the additional brief facts and further generated documents serially numbered from 2460 to 3004 are admitted by the detaining authority to have been received by its office late in the evening on 9th April 2014.

22. We do see how then it was necessary to wait any further. If there was a necessity of immediately taking a decision so as to prevent the parties or a person like the detenu from indulging in smuggling activities in future, then a certain degree of promptness and expediency was expected. Much has been made of the enormity of the seizure of red sanders and they being valuable and the smuggling thereof affecting adversely the national economy. We do not see how then the flip flop or passing the buck is justified or acceptable. If the sponsoring authority says that it acted promptly and forwarded everything to the detaining authority in April 2014 then, the detaining authority's explanation for the delay from April 2014 to September 2014 does not inspire any confidence. We do not

see how they are making capital of a further correspondence. Pertinently, the detaining authority's affidavit is making an attempt to show that a second pre-detention representation of April 2014 and received in the office of the detaining authority also came to be forwarded for para-wise comments to the sponsoring authority. The concerned Section Officer submitted a note on 27th May 2014 and the Joint Secretary endorsed it on 28th May, 2014. It took the detaining authority to endorse this note till 18th June, 2014.

23. Pertinently, the affidavit refers to the period from 18th June 2014 to 4th August 2014 being spent by the detaining authority in perusing certain clarifications provided by the sponsoring authority and the photostat copies, reply filed to the show cause notice by the detenu and others by office letter dated 7th July, 2014. The sponsoring authority's affidavit is silent on all these developments. Then a capital is made that some pages were blank and illegible and this being discovered by the detaining authority on scrutiny of the proposal. Pertinently, such act on the own showing of the detaining authority was completed in December 2013 by the sponsoring authority and thereafter it was only forwarding the

documents and further generated documents. Therefore, the explanation that on 6th August, 2014 the detaining authority directed getting some information from the sponsoring authority, a letter being prepared on 7th August, 2014, reminder letter being sent on 21st August 2014 and the sponsoring authority forwarding information by letter dated 25th August, 2014 which was received in the Office of the detaining authority on 26th August, 2014 are not mentioned in the sponsoring authority's affidavit. What information and on what count was not available and therefore was sought for, has not been explained by the detaining authority. Even after receipt of certain information an attempt is made to justify the delay by pointing out that the sponsoring authority forwarded 19 sets of reply to the show cause notice on 13th January, 2014 to 29th September, 2014, which is after the impugned order was made.

24. Pertinently, in paragraph 92 of the grounds of detention the authorities have observed as under:

92. “ While passing the detention order under COFEPOSA Act, 1974. I have referred to and relied upon the documents mentioned in the enclosed list marked at Annexure 'A' except the illegible pages mentioned in the enclosed list at Annexure 'B' which are also being served on you. These illegible pages could not be weeded out as they part of the compilation. These illegible pages are only referred but not relied upon as none of them are vital The documents mentioned

in the list at Annexure 'B' are either photocopies of identity proof documents such as PAN cards, Driving Licence etc of persons whose statements were recorded during investigations, or photocopies of pre-printed parts of government prescribed documents such as shipping Bill.”

25. On reading of this paragraph, it is evident that the illegible pages of which much capital has been made in this affidavit are only referred to but not relied upon documents as none of them being vital according to the detaining authority. Then photostat copies like PAN card, Driving Licence etc of persons whose statements were recorded during investigation and other such documents were not found to be so much relevant nor were made a foundation. If it was imperative to detain the detenu under section 3 (1) (i) of **COFEPOSA** with a view to prevent him from indulging in smuggling activities in future, then, on the own showing of the detaining authority, a delay of 9 months and 13 days from the date of receipt of proposal has not been satisfactorily explained. The explanation does not inspire any confidence and can hardly be termed as reasonable and acceptable.

26. We do not see how therefore, we can dilute the requirement in law as enumerated in the Supreme Court decisions. In the case of

Rafique (supra) the Division Bench held that in matters of this nature much should not be made of delay and if the propensity and potentiality of a person being involved and likely to be involved in future in smuggling activities is important in such matters, then the live link has been severed or not must be determined accordingly and that delay simplicitor is not fatal. However, all decisions of the Supreme Court to which we have made extensive reference are in **COFEPOSA** matters. This is not a case where the sponsoring and detaining authority says that delay must be ignored and brushed aside or is not relevant or a germane factor. If it is then, no capital must be made of the delay in processing the files. However, in the present case, we do not find that the unreasonable and unacceptable delay can be ignored. For in such matters where a person has engaged in smuggling activities as alleged in July 2013, all proposals were scrutinized and finally to detain him in December 2013 but, till September 2014 the detention order has not been issued, then the live link must be taken to have been snapped. There is then no nexus with the activity of smuggling detected in 2013 and the detention order of 29th September, 2014.

succeeds. Rule is made absolute in terms of prayer clause (a). In the view that we have taken, it is not necessary to refer to other grounds on which the order of detention is challenged. To be fair, Mr.Singh learned counsel for the petitioner was not allowed to press them as well. The detenu be released forthwith if, not required in any other case.

G.S.KULKARNI, J

S.C.DHARMADHIKARI, J