

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2717 OF 2014

M/s.Aaarya International and others ..Petitioners.

Versus

The Union of India and others ..Respondents.

Mr.Rizwan Merchant a/w Ms.Sharmila Mhatre i/b Mr.R.N.Shetty,
Advocate for Petitioners.

Ms.Rebecca Gonsalves, Advocate for Respondents No. 1 & 2.

Mr.Vincent D'Silva, Advocate for Respondent No.3.

Ms.M.M.Deshmukh, APP for Respondent No.4 - State.

**Coram : RANJIT MORE &
R.G.KETKAR, JJ.**

Date : 31st AUGUST, 2015.

P. C. :

. Heard learned Counsel appearing for the respective parties.

2. By this Petition under Article 226 of the Constitution of India, petitioners have challenged the orders dated 05/07/2013 and 12/12/2008 passed by the Assistant Director (PMLA) and Adjudicating Authority under the Prevention of Money Laundering Act, 2002 (for short 'PMLA Act') in Original Complaint No. 20 to 23 of 2008.

3. The petitioner No.2 claims that he is the owner of the hotel 'Liberty' situate at 75-C, Santacruz, Golibar Road, Mumbai – 56. This fact is stoutly disputed by respondent No.3, brother of petitioner. Respondent No.3 claims that petitioner No.2 has no concern with the said hotel and he is the owner of the said hotel. The said hotel is attached under Section 5 of the Act by the Assistant Director (PMLA) and this attachment is confirmed by the Adjudicating Authority in Original Complaint No. 20 to 23 of 2008 under the provisions of Section 8 of the PMLA Act. Under Section 26 the said Act, Appeal is provided to the Appellate Authority against order passed under the said Act. We are, therefore, of the opinion that petitioners have equally efficacious alternate statutory remedy by way of an Appeal. We are, therefore, not inclined to interfere with this Petition.

4. Mr.Merchant submits that the impugned order passed under Section 8 by the Adjudicating Authority is without issuing any notice to the petitioners and therefore, this Court should exercise jurisdiction under Article 226 of the Constitution of India. We are not impressed by the submission inasmuch as respondent No.3, brother of the petitioner claims to be the owner. At one stage, Mr.Merchant argued that there is judicial order in his favour to show ownership of the said hotel. However, we do not see any conclusive order in favour of the petitioners. In any case, the petitioner's claim of ownership of the said hotel is disputed by respondent No.3.

5. In such circumstances, it would be appropriate for the petitioners to approach the Appellate Authority. Mr.Merchant submits that the Appeal would be barred by limitation. The petitioners are always at liberty to file an Appeal with application for condonation of delay. In the event, the said application is filed, the Appellate Authority shall consider the same sympathetically. All the points and contentions in this regard are expressly kept open.

6. Subject to above, Petition stands dismissed.

[R.G.KETKAR, J.]

[RANJIT MORE, J.]