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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA No.11/2015

DY. DIRECTOR, DIRECTORATE OF ENFORCEMENT..Appellant

Through: Mr. Sanjay Jain, ASG with Mr. Amit Mahajan, CGSC and Mr. Nitya Sharma, Advs.

Versus

RAJIV CHANANA

..... Respondent

Through: Mr. Vikas Pahwa, Sr. Adv. with Mr. B. Badrinath & Mr. Abhishek Dhingra, Advs.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

**13.01.2015**

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**Caveat No.29/2015**

1. Since the learned counsel for the respondent has entered appearance, caveat stands discharged.

**CM No.493/2015 (for exemption)**

2. Exemption allowed, subject to all just exceptions.

**CM No.492/2015 (for condonation of 66 days delay in preferring the appeal)**

3. We have heard the counsels for the parties.

4. For the reasons stated in the application, delay in filing the appeal is condoned.

5. The application stands disposed of.

**LPA No.11/2015 & CM No.491/2015 (for stay)**

6. This intra court appeal impugns the order dated 19<sup>th</sup> September, 2014 of the learned Single Judge of this Court in W.P.(C) No.6293/2014 preferred by the respondent.

7. The said writ petition was preferred impugning the order dated 4<sup>th</sup> February, 2011 of the Adjudicating Authority under the Prevention of Money Laundering Act (PMLA), 2002 of attachment of certain immovable properties and seeking a direction for release of the said properties. The writ petition came up before the learned Single Judge on 19<sup>th</sup> September, 2014, when the counsel for the appellant appeared on advance notice. The learned Single Judge, after hearing the counsel for the parties, on the very same day disposed of the writ petition holding that the continued attachment of the property was unsustainable. However, inspite of such a finding, the learned Single Judge in the penultimate paragraph of the judgment observed “In the circumstances, it *prima facie* appears that the attachment order ought

to be vacated” and finding that the respondent / writ petitioner had filed a representation before the appellant in this regard and which had not been disposed of, disposed of the writ petition by directing the appellant to dispose of the said representation within a period of four weeks.

8. In the circumstances, we at the outset enquired from the learned ASG appearing for the appellant that since the learned Single Judge inspite of holding the continued attachment of properties to be unsustainable, has still qualified the said finding as *prima facie*, would it not be appropriate for the appellant to, in compliance with the direction of the learned Single Judge, pass an order on the representation made by the respondent / writ petitioner.

9. The learned ASG had contended that the learned Single Judge in the impugned order has returned categorical findings on interpretation of the provisions of the Act. It is also argued that in other petitions entailing the same question coming up before the learned Single Judge, the learned Single Judge is proceeding on the premise that the findings returned in the impugned order are final. Copy of the order dated 19<sup>th</sup> November, 2014 in W.P.(C) No.7943/2014 in this regard is handed over. It is yet further

contended that the impugned order is being cited as a binding precedent in other Courts also. It is contended that the interpretation adopted by the learned Single Judge of the provisions of the Act, is erroneous and that though the learned Single Judge has taken note of the contention of the appellant of the amendment of the year 2013 to Section 8 thereof but has not adjudicated on the said aspect.

10. We find considerable merit in the aforesaid contentions of the learned ASG.

11. After some hearing, the senior counsel for the respondent / writ petitioner agrees that the impugned order be set aside and the writ petition filed by the respondent / writ petitioner as well as this appeal be disposed of by directing the Appellate Authority under the PMLA to decide the appeal already preferred by the respondent / writ petitioner against the order aforesaid of attachment of properties within the time to be fixed by this Court. It is contended that arguments were heard in the appeal long back and order is reserved.

12. It is further agreed between the counsels that since considerable time has lapsed, an opportunity be also given to the parties to make further arguments, if needed, before the Appellate Authority.

13. Accordingly, we dispose of this appeal by setting aside the impugned order / judgment and by disposing of the writ petition (from which this appeal arises) filed by the respondent / writ petitioner by directing the Appellate Authority under PMLA to dispose of the appeal preferred by the respondent / writ petitioner against the order of attachment within a period of eight weeks from today. We further direct the parties / counsels to appear before the Appellate Authority on 20<sup>th</sup> January, 2015, on which date, the Appellate Authority may hear further arguments, if any sought to be addressed by either of the counsels on the merits of the appeal or may fix a date for such hearing, ensuring that the appeal is disposed of within eight weeks.

14. A copy of this order be given dasti under the signatures of the Court Master to the counsels for the parties to enable them to file the same before the Appellate Authority and be also forthwith forwarded by the Registry of this Court to the Appellate Authority, to ensure compliance.

No costs.

**CHIEF JUSTICE**

**RAJIV SAHAI ENDLAW, J.**

**JANUARY 13, 2015/bs**  
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