IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION {L} NO.978 OF 2016

Vijay Subbanna Poojary .... Petitioner
Vs.
Union of India & Others .... Respondents

Mr. Prakash Shah with Mr. Anil Balani, Ms Pooja Reddy & Subha Reddy i/by Mr. Sagar Kasar for the Petitioner.
Mr. Pradeep Jetly with Mr. Jitendra B. Mishra for the Respondents.

**CORAM:** S.C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, JJ.

**DATE** : JUNE 20, 2016

**P.C:**

1. We have heard both sides. We have perused all the affidavits on record. In furtherance of our earlier orders, today what we have noted is that Mr. Jetly has been instructed by the concerned officials to inform the Court that the attached motor vehicles would be released to the original owners and in accordance with law. Secondly, he is also instructed to inform that the immoveable properties/Flats, which are more

particularly described at page 130 of the paper-book, are not attached, as complained, but communications are addressed to the Co-operative Housing Societies not to register any transfer in relation to these Flats in the books of the Society.

2. Mr. Shah, appearing on behalf of the petitioner, complains not about the vehicles and states that their release is taken care of by the earlier direction. He submits that addressing such communications would mean attaching these Flats and depriving the petitioner of his property rights, without any adjudication of the show cause notice and without any proof of the allegations in the show cause notice forthcoming. It is only after an adjudication order and which also can be challenged in accordance with law can all such steps and if at all permissible in law be taken.

3. We do not determine any larger controversy, but from the scheme of the Customs Act, 1962 we find that presently when the show cause notice is yet to be adjudicated

and there are mere allegations against the petitioner, can the Revenue address such communications, as are brought to our notice by Mr. Jetly. These communications are not innocuous for they have far reaching consequences in law. The Revenue should refrain from addressing such communications unless the scheme of the enactment in question permits them to do so. Therefore, we clarify that there is no attachment of the immoveable properties, more particularly listed on page 130 of the paper-book and the petitioner can proceed to deal with them in accordance with law. However, we at the same time clarify that the Revenue's rights and contentions, particularly regarding recovery of any sums towards taxes, if any, and other legal duties shall not be affected by these directions. The writ petition is, therefore, disposed of in these terms.

(DR. SHALINI PHANSALKAR-JOSHI, J.) (S.C. DHARMADHIKARI, J.)